

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY

Jointly with

COMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

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December 16, 2019
Start: 11:05 a.m.
Recess: 1:36 p.m.

HELD AT: Remote Hearing - Virtual Room 4

B E F O R E: Ritchie J. Torres
Chairperson

Adrienne Adams
Chairperson

COUNCIL MEMBERS:

Diana Ayala
Ben Kallos
Keith Powers
Carlina Rivera
Rafael Salamanca, Jr.
Mark Treyger
Kalman Yeger
Justin L. Brannan
Fernando Cabrera
Andrew Cohen

COUNCIL MEMBERS: Chaim M. Deutsch
Vanessa L. Gibson
Carlos Menchaca
I. Daneek Miller
Ydanis Rodriguez
Paul Vallone

A P P E A R A N C E S (CONTINUED)

Benjamin Tucker
First Deputy Commissioner of the NYPD

Tanya Meisenholder
Deputy Commissioner of Equity and Inclusion at
NYPD

Oleg Chernyavsky
Assistant Deputy Commissioner for Legal matters
at NYPD

Deborah Lolai
Bronx Defender Services

Maryanne Kaishan
Brooklyn Defenders

Jennvine Wong
Legal Aid Society

Jin Kwak
Anti-Violence Project

1 COMMITTEE ON PUBLIC SAFETY JOINTLY WITH
2 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

4

3 UNIDENTIFIED: Recording started.

4 UNIDENTIFIED: Cloud [sic] started.

5 UNIDENTIFIED: Back-up is rolling [sic].

6 COMMITTEE COUNSEL: Good morning and
7 welcome to today's remote New York City Council
8 hearing of the Committee on Oversight and
9 Investigations jointly with the Committee on Public
10 Safety. At this time, would all panelists please
11 turn on their video? To minimize disruptions, please
12 silence your electronic devices, and if you wish to
13 submit testimony, you may do so via email at
14 testimony@council.nyc.gov. Once again, that's
15 testimony@council.nyc.gov. Thank you for your
16 cooperation. We are ready to begin.

17 CHAIRPERSON TORRES: Good morning
18 everyone. I'm City Council Member Ritchie Torres,
19 and it's bittersweet for me to know that this is
20 going to be my final hearing as the Chair of the
21 Committee on Oversight and Investigations. More
22 importantly, this is the first hearing for Council
23 Member Adrienne Adams as the Chair of the Committee
24 on Public Safety, and I could not think of a better
25 choice for the position, and I know the committee
will be well-served by her leadership. I think it is

3 also fitting that today's hearing is being shared by
4 two members of color, which brings me to the matter
5 at hand. Before we begin the hearing, I want to
6 remind everyone why we're here. At the beginning of
7 November, the Council investigation found that a
8 high-ranking member of the Police Department appears
9 to have been leading a double-life. By day, Deputy
10 Inspector James Kobel served as the Commanding
11 Officer of the Department's Equal Employment Office,
12 the office responsible for maintaining a safe and
13 equitable workplace culture in the Department. By
14 night, Kobel appears to have been Clouseau, a toxic
15 internet persona who posted racist and otherwise
16 hateful statements in an online rant board. And I
17 want this to be clear to everyone as we proceed
18 today. We are not talking about insensitive comments
19 or statements that suggest an implicit bias, we are
20 talking about explicit in virulent hate speech. For
21 example, throughout his hundreds of online postings,
22 Clouseau routinely referred to black people as
23 animals and creatures and savages. He described the
24 first female District Attorney elected in New York
25 State as a "gap toothed wild beast." He called
former President Barack Obama a "Muslim savage." He

3 referred to Congressional Representative Ilhan Omar
4 as "a filthy animal," and to the Mayor's own son
5 Dante as "brillo head." And Clouseau's hatred was
6 not solely directed at people of color. For example,
7 he accused the Hasidic community of rampant incest
8 and wrote that it would be a good thing if many of
9 them died from COVID. This is just a very small
10 sample of the kind of hateful rhetoric Clouseau
11 posted, and a great deal more can be found in the
12 Council's report. These statements and beliefs have
13 no place in a modern society, and they certainly have
14 no place within the Police Department. The agency
15 that is sworn to protect all of us regardless of the
16 color of our skin. This case alone should fill us
17 all with a sense of outrage, and it should steel
18 within us the will to make a change, but we must
19 remember that this is not one case. These rant
20 boards have existed for years, and there are many,
21 many more law enforcement officers posting the same
22 kind of despicable [inaudible] that Clouseau did.
23 This should present a moment of crisis to the Police
24 Department. In a year that has presented so many,
25 too many, such moments. Today, I want to hear how
the Police Department plans to meet this moment, but

3 I also want to hear from them a commitment. I want
4 them to join me in calling for and cooperating with a
5 full and independent investigation into law
6 enforcement's participation in online hate speech.
7 And when a police officials found to have posted
8 racist or otherwise hateful material, I want to see a
9 full review of that officer's past work, their
10 arrest, their testimony, their investigative work to
11 see whether it was infected by that official's
12 pernicious bias. We must also recognize that this is
13 not an issue that's unique to New York City. The
14 police officers on these rant boards are not only
15 coming from the NYPD. They are coming from Police
16 Departments all around the country. Just a few
17 months ago, the Brennan Center released a
18 comprehensive report finding that while recent police
19 reforms have focused on battling implicit or
20 unconscious bias among offices, these reforms have
21 largely not addressed the explicit racism that
22 remains firmly entrenched within law enforcement.
23 That report also charges that the government's
24 response in this issue has been "strikingly
25 insufficient." It found that although it is widely
acknowledged that racist officers subsist within

3 Police Departments around the country, federal state
4 and local governments are doing far too little to
5 proactively identify them, report their behavior to
6 prosecutors who might unwittingly rely on their
7 testimony in criminal cases, or protect the diverse
8 communities they are sworn to serve. Strikingly
9 insufficient, that's a harsh condemnation, and the
10 phrase should sting. It should sting the NYPD. It
11 should sting Police Departments all around the
12 country, but it also should sting the elected
13 officials who have thus far failed to root out this
14 scourges of racism and explicit hatred within our own
15 police departments. And so today, I'm also calling
16 for broader, nationwide investigation into this
17 issue. I intend to make this a priority in my new
18 role representing the 15th District in the House of
19 Representatives in the United States Congress, and I
20 intend to push the Department of Justice to
21 prioritize this as well. This is a challenge we must
22 meet if we are ever going to take our place as a
23 modern society. And with that, I would like to turn
24 things over to Chair Adams.

25 CHAIRPERSON ADAMS: Thank you so much,
Chair Torres. I am honored to share this platform

3 with you and to tell you what an honor it's been to
4 serve with you as your colleague on the Council. I'm
5 also honored to take on this new role in leading the
6 Public Safety Committee as Chair, and I am looking
7 forward to working with my fellow committee members
8 over the coming months on the many important police-
9 related issues facing our city. Today's hearing
10 could not be more urgent or timely. The revelations
11 about Deputy Inspector Kobel and the spotlight they
12 have put on this phenomenon of grossly offensive
13 posts made online by their subset of apparent current
14 and former police officers are disgusting, disturbing
15 and extremely concerning. The concern, of course, is
16 not just about one individual, it's about a system
17 and a culture. We know there are many, many
18 dedicated men and women who serve our Police
19 Department who want nothing more than to protect
20 their fellow New Yorkers and look out for everyone,
21 no matter their background or identity, but at the
22 same time, we must seize this moment to examine the
23 rules, protocols and attitudes of the Department to
24 ensure that anyone who expresses hateful, racist,
25 bigoted views is simply not welcome in our Police
Departments. It's hard to imagine a more corrosive

1 source for the Police Department than hate and
2 racism. If New Yorkers cannot be confident that the
3 NYPD is free of anyone who harbors such abhorrent
4 views, then essential trust between police and
5 community breaks down. We know that the NYPD has
6 made some efforts at teaching police officers how to
7 mitigate implicit biases. As important as that may
8 be, explicit bias and hate are of course a whole
9 different ballgame. While the NYPD's leaders have
10 said the right things about such behavior being
11 unacceptable, those words need to be backed up with
12 actions, both reactive and proactive. The enormous
13 trust and responsibility and power over individual
14 lives that New Yorkers place and the Police
15 Department demands nothing less. Therefore, I look
16 forward to learning more today about the NYPD's plans
17 to improve the ways that it ensures its entire force
18 is free of hate and bias. New Yorkers deserve
19 nothing less as a basic step toward ensuring that
20 their Police Department will protect them and enforce
21 our laws fairly and with the courtesy,
22 professionalism, and respect that form the essential
23 ideals of the NYPD. Thank you very much, Chair
24 Torres. I look forward to today's hearing.
25

3 CHAIRPERSON TORRES: I want to
4 acknowledge that we've been joined by Council Member
5 Adams, Ayala, Brannan, Cabrera, Deutsch, Powers,
6 Rodriguez, Vallone, Miller, and Eugene. We'll
7 proceed to the first panel. I think we're joined by
8 the First Deputy Inspector of the NYPD, good to see
9 here [sic].

10 COMMITTEE COUNSEL: Council Member
11 Torres, thank you so much. Let me just go through
12 some procedural items first. I'm Janita John [sp?],
13 Counsel to the Oversight and Investigations Committee
14 of the New York City Council. Before we begin, I
15 want to remind everyone that you will be on mute
16 until you are called on to testify, at which point,
17 you will be unmuted by the host. Members of the
18 Administration who are testifying will not be muted
19 during the Q&A portion of the Administration's
20 testimony. I will be calling on panelists to
21 testify. Please listen for your name to be called.
22 The panelists to give testimony will be the First Deputy
23 Commissioner of the New York City Police Department,
24 Benjamin Tucker, Deputy Commissioner for Equity and
25 Inclusion of the New York City Police Department,
Tanya Meisenholder, and Assistant Deputy Commissioner

3 for Legal Matters of the New York City Police
4 Department, Oleg Chernyavsky. I will call on you
5 shortly for the oath, then again when it is time to
6 begin your testimony. During the hearing, if Council
7 Members would like to ask a question of the
8 Administration or the specific panelists, please use
9 the Zoom raise hand function, and I will call on you
10 in order. We will be limiting Council Member
11 questions to five minutes, which is the time it takes
12 to answer questions. All hearing participants should
13 submit written testimony to testimony@council.nyc.gov
14 if you have not already done so. The deadline for
15 written testimony is 72 hours after the hearing. The
16 Committee Chairs have also asked me to note for the
17 public that we have a significant number of witnesses
18 scheduled to testify today. We expect this to be
19 long, but we will be reviewing written testimony
20 which is also part of the record, in case you need to
21 leave before you are called upon to testify. Before
22 we begin testimony, I will administer the oath. To
23 all members of the Administration who will be
24 offering testimony or will be available for
25 questions, please raise your right hand. I will read
the oath, then call on each of you individually for a

1 response. Do you swear or affirm to tell the truth,
2 the whole truth and nothing but the truth before this
3 committee and to respond honestly to Council Member
4 questions? First Deputy Commissioner of the New
5 York City Police Department Benjamin Tucker?
6

7 FIRST DEPUTY COMMISSIONER TUCKER: I
8 will.

9 COMMITTEE COUNSEL: Deputy Commissioner
10 for Equity and Inclusion of the New York City Police
11 Department, Tanya Meisenholder?

12 DEPUTY COMMISSIONER MEISENHOLDER: I
13 will.

14 COMMITTEE COUNSEL: Assistant Deputy
15 Commissioner for Legal Matter of the New York City
16 Police Department Oleg Chernyavsky?

17 DEPUTY COMMISSIONER CHERNYAVSKY: I will.

18 COMMITTEE COUNSEL: Thank you all. Now,
19 I invite the representatives of the New York City
20 Police Department to begin their testimony.

21 FIRST DEPUTY COMMISSIONER TUCKER: Before
22 I-- this is Commissioner Tucker. Before I begin my
23 testimony, as I say good morning to Chair Torres and
24 Chair Adams, let me just say to Chair Torres,
25 congratulations on your election and wishing you all

3 the best in your new role, but also thank you for
4 your service on the Council over these many years and
5 having the opportunity to work with you on so many of
6 the issues we all care about, and I wish you the
7 best. Look forward to working with you in your new
8 role. Chair Adams, same thing. Congratulations on
9 your new role as the new Chair of the Public Safety
10 Committee. We'll be spending some time together, no
11 doubt. I wish you the best as we go forward on
12 issues-- those we'll talk about today, but on many
13 others as well. So, again, good morning to Chair
14 Torres, Chair Adams, and the members of the Council.
15 I'm Ben Tucker, First Deputy Commissioner of the New
16 York City Police Department. I'm joined today by
17 Deputy Commissioner for Equity and Inclusion Tanya
18 Meisenholder, and Assistant Deputy Commissioner for
19 Legal Matters, Oleg Chernyavsky. On behalf of
20 Commissioner Dermot Shea, we wish to thank the
21 Council for the opportunity to discuss these
22 important topics. I want to begin my statement by
23 stating in the strongest terms possible that the
24 words of the bigot whose post appeared online
25 unequivocally unacceptable. When a person chooses to
become a police officer, they swear an oath to

3 protect and serve the public just as I did when I
4 became a young police recruit in the early 1970's.
5 In doing so, they are granted power and authority
6 over others. They are authorized to use force and
7 exercise coercion over others according to the law
8 and accepted standards, but they're also bound by
9 ethical rules and responsibilities, and as such, they
10 must strive to fulfil the oath each and every time
11 they put on their uniforms. Their north star must be
12 ethical behavior. It is crucial in the exercise of
13 discretion, use of force, and due process. The oath
14 is rendered meaningless when one's heart contains
15 such vile hatred and contempt, not only those we
16 serve, but also those we serve alongside. The posts
17 are not only an affront to the citizens of New York
18 and the members of this council, but also the 55,000
19 members of the NYPD. It is incumbent upon all of us
20 in leadership roles within the Department to foster a
21 culture of acceptance and respect that values the
22 citizens of this great city and signals to our
23 employees that we understand and appreciate their
24 contributions as well. Deputy Commissioner
25 Meisenholder will speak in a moment about many of the
things we have instituted to create and improve our

3 environment. We recognize that in this day and age
4 it is simply impossible to ensure fair impartial
5 policing throughout our city without a disciplined,
6 accepting, and diverse team of officers and
7 civilians. We must never cease striving to gain and
8 maintain the trust and partnership of the people we
9 serve. Without real concrete actual in the direction
10 of acceptance and inclusion. This partnership, which
11 is the bedrock principle of neighborhood policing
12 would nearly be a slogan and would have been dead on
13 arrival so many years ago. As a young black kid
14 growing up in Bedford Stuyvesant in the 60s, I never
15 aspired to become a police officer. I was not a fan
16 of the police. Cops hassled me and my friends too
17 often and for no good reason. But when a friend rang
18 my bell one day and encouraged me to go with him to
19 Boys [sic] High School to take police exam, I went,
20 and my life changed forever. A little more than two
21 and a half years, or two years later, on November
22 21st, 1969 I was sworn in as a police trainee. At
23 that moment, I believed I could make a difference
24 from within the NYPD, rather than sitting on the
25 outside hoping things would change. Throughout my
decades of service to the City and its people, the

3 bedrock commitment I made that day is still very much
4 intact, and along the way I've witnessed the NYPD
5 grow in a meaningful and significant ways. And even
6 when we've gotten things terribly wrong, we've
7 learned from our mistakes, holding personnel
8 accountable and redoubling our efforts closed the gap
9 between police and community in recognition of the
10 fact that public safety is a pure responsibility.
11 During the past nearly seven years we've made
12 unprecedented progress in the areas of diversity
13 within our ranks and sensitivity to the many unique
14 and diverse individuals and groups who contribute to
15 the fabric of New York City. At the same time,
16 emphasis on training, technology, tactics, counter-
17 terrorism, and building trust through our
18 neighborhood policing philosophy has improved the
19 quality of policing in the City. Our work is not yet
20 complete, but our efforts have already paid
21 significant dividends. And just for example in 2019,
22 we arrested close to 200,000 fewer people than we did
23 in 2011. We issued over 372,000 fewer combined
24 criminal court and hold [sic] summonses, and members
25 in the NYPD stopped fewer people than the high water
mark of almost 700,000 individuals in 2011. In 2019

3 alone there were 1.2 million fewer combine arrests,
4 criminal summonses and pedestrian stops than in 2011.
5 Firearm discharges have declined 96 percent from a
6 high of 994 in 1972, the year that I was sworn in as
7 a police officer, to 52 in 2019, and 25 of those
8 incidents were adversarial incidents between police
9 officers and civilians. This level of restraint is
10 commendable, in light of the fact that in 2019
11 officers responded to 6.4 million calls for service,
12 over 170,000 calls for persons experiencing mental
13 health crisis, and made 3,299 gun arrests for
14 possession. Furthermore, a significant reduction in
15 our enforcement footprint is an intentional strategy
16 that abandoned historical misconceptions that tied
17 mass enforcement and incarceration to a reduction in
18 crime. I think we can all agree that our rejection of
19 that outdated relief not only spared hundreds of
20 thousands of mostly black and brown young men from
21 having a criminal record, but simultaneously drove
22 crime to historic lows during this period. Today's
23 officers are better trained and more professional
24 than at any time in the Department's history. I am
25 proud of the work they do every day; however, it is
imperative that there be accountability when an

1 officer behaves in a way that's counter to the
2 mission. To that end, former Police Commissioner
3 James O'Neill, commissioned a Blue Ribbon Panel to
4 evaluate our entire disciplinary system. They found
5 that the system was generally fair and robust, but
6 that it severely lacked transparency. The Blue
7 Ribbon Panel made 13 recommendations, all of which we
8 adopted, and as of today have been substantially
9 implemented. This includes hiring a civilian liaison
10 whose duties will be to keep victims of families
11 informed on use of force cases, and establishing an
12 outside auditor to assess our ongoing compliance with
13 the recommendations implementation. One of the key
14 recommendations which was codified by this Council
15 was the development of the disciplinary panel--
16 disciplinary penalty guidelines for Matrix. The
17 Matrix, with more than a year in development, and it
18 include input from the Civilian Complaint Review
19 Board and the Commission to Combat Police Corruption.
20 The Matrix described the disciplinary process
21 presumptive penalties for acts of misconduct, as well
22 as the aggravating mitigating factors that may be
23 relevant in determining the appropriate penalty for a
24 specific act of misconduct. At the end of August,
25

1 the Department published the graph Matrix on the NYPD
2 website and invited public comment. The comment
3 period ran through the end of September, and the
4 Department received 439 online comments related to
5 the Matrix. The Department also received several
6 letters from interested parties and stakeholder
7 organizations, and met with a number of
8 organizations, including CCRB, CCPC, the New York
9 Civil Liberties Union, and Communities United for
10 Police Reform, among others to solicit their input.
11 The Department is currently evaluating the feedback
12 and revising the matrix, and following the adopted
13 version will be published on the NYPD website in
14 January. Again, our work is not done, and I will
15 continue to come to work each day to ensure that we
16 get better. Since Commissioner [inaudible] of the
17 service and resigned while facing discipline, 50
18 [sic] members of the service have been dismissed.
19 This, I think, exemplifies our commitment to holding
20 members of the service accountable for their
21 misconduct. [inaudible] vile comments on the web.
22 There is no doubt that the posts in question are
23 replete with hateful expressions. Consequently, if
24 we determine that the member of the service is the
25

3 author, that a member of our service is the author, I
4 assure you we will hold that person accountable
5 swiftly and to the fullest extent of the law. I
6 thank you for the opportunity to express my views
7 with you, and I look forward to answering any
8 questions that you may have during this session. I
9 now turn it over to Commissioner Meisenholder for her
10 remarks.

11 DEPUTY COMMISSIONER MEISENHOLDER: Good
12 morning Chair Torres, Chair Adams, and members of the
13 City Council. I am Doctor Tanya Meisenholder, Deputy
14 Commissioner for Equity and Inclusion for the New
15 York City Police Department. On behalf of Police
16 Commissioner Dermott Shea, I am pleased to offer
17 testimony about the NYPD's Office of Equity and
18 Inclusion, OEI, and the important work we are doing
19 to have an inclusive work environment that is fair,
20 safe, and accommodating for all service members of
21 the NYPD. I want to begin by making my opinions
22 regarding the racist, anti-Muslim, anti-Semitic, and
23 misogynistic comments which were made under the
24 pseudonym Clouseau, very clear. I am appalled. I am
25 outraged by these reprehensible and deeply disturbing
posts. I couldn't agree more with Speaker Johnson

3 and Chair Torres that these postings were deplorable
4 and intolerable, reprehensible and unprofessional,
5 and that bigotry has no place in the NYPD. It is
6 unacceptable to have employees from the NYPD who have
7 these rules and behave in this manner. These actions
8 cause tremendous harm, both internally among our
9 employees and in the work we're doing to repair
10 trust, and improved relationships with the
11 communities we serve. Regardless of the outcome of
12 the investigation, our work is coming under scrutiny.
13 It is my hope that my testimony here today will
14 reflect the professionalism my team as a whole and
15 allay any fears [sic] the allegations mentioned are
16 reflective of the actual work being done to ensure
17 allegations of workplace misconduct are investigated
18 thoroughly and impartially. The Office of Equity and
19 Inclusion was established in 2018 under the
20 leadership of then Police Commissioner James P.
21 O'Neill and First Deputy Commissioner Benjamin B.
22 Tucker. In addition to the many improvements of the
23 NYPD over the past two years, they recognize the
24 importance of dedicating an office to further
25 diversity, equity, and inclusion ideas throughout the
Department. Our mission with OEI is to ensure that

3 our employees are treated with dignity and respect in
4 the workplace, to identify and address obstacles to
5 success and to promote a workplace that is safe and
6 free from discrimination and harassment. We also
7 understand that employee satisfaction has a direct
8 nexus to how we treat each other in the workplace and
9 how we serve the citizens of New York. The NYPD is
10 one of the most diverse Police Departments in the
11 nation, and we are continuously striving to become
12 more diverse and inclusive with each new recruit
13 class. A few weeks ago, we welcomed a new class of
14 police officers that is 24 percent female, 34 percent
15 Hispanic, 13 percent black, and 13 percent Asian.
16 Nearly 20 percent of the recruits were born outside
17 the United States, and one-third of them speak 31
18 different languages. Over 60 percent are New York
19 City residents, and 12 percent were police cadets.
20 In order to continue to make advancements in the
21 diversity of our workforce, we have taken additional
22 measures. In OEI we examine employee demographic
23 trends over time, and among multiple dimensions with
24 a focus on developing policy and procedural
25 recommendations. We consider best practices in data
collection, and also ensure that we are in compliance

1 with legislative changes, for example: gender
2 identity. In addition, we also recognize and explore
3 the often overlooked but significant difference among
4 the make-up of our civilian-in-uniform [inaudible].
5 One of our primary objectives in OEI is to identify
6 and understand obstacles to achieve more diverse
7 workforce. We focus on various phases in the
8 employment life cycle for both respective and current
9 employees, including recruitment in hiring, entry-
10 level training, civil service and discretionary
11 promotions, and retention. Employee engagement is an
12 essential component of our role, and we actively
13 strive to ensure our employee's thoughts, concerns,
14 and experiences are heard and valued. We also work
15 closely with our employee resource groups to
16 understand various issues affecting their memories
17 [sic]. We have spearheaded a host [inaudible]
18 including, but not limited to, employee forums on
19 race in law enforcement, our LGBTQIA+ working group,
20 various efforts focused on female employees, as well
21 as leadership focus initiatives including command
22 [inaudible]. Although no exhaustive, I would like to
23 take this opportunity to highlight a few of the
24 initiatives which OEI has been investigating. Since
25

3 June of 2020, OEI has posted discussion forums for
4 employees to share their experiences and views on
5 race in law enforcement and issues related to social
6 justice. These discussions cover various topics
7 including racial identity, systemic racism,
8 diversity, acceptance, leadership, and barriers to
9 equity in both the department and society in general.
10 And while the focus is on race, many other issues
11 [inaudible], issues related to gender, classism,
12 sexual orientation, how we treat each other in the
13 workplace, and how we work with the community. Many
14 of the themes throughout the course of this
15 discussion included ideas on how to create a more
16 inclusive and equitable department. Our LGBTQIA+
17 work includes partnering with the Gay Officers Action
18 League goal as well as our NYPD LGBTQIA+ Liaison and
19 other internal and external stakeholders to address
20 issues specific to our LGBTQIA+ employees and the
21 broader community. We focus on awareness and support,
22 training, policy, and compliance. We are
23 collaborating on a gender identity and expression
24 booklet, and a bias-free language guide which
25 includes information on gender pronouns, and in 2019
we partnered on anonymous and confidential employee

3 race survey designed to explore LGBTQIA+ within the
4 NYPD. Though we understand that an individual's
5 LGBTQIA+ identity can be either a public or a private
6 matter, we are driven to explore these experiences
7 [inaudible] anticipate intolerance and/or negative
8 behavior towards the LGBTQIA+ community has far-
9 reaching effects on many of our employees and is
10 unacceptable in the workplace. We support and host
11 various efforts that focus on uniting and empowering
12 women in the NYPD. Working in partnership with the
13 Police Women's Endowment Association, we host an
14 annual women's conference. It is not only a
15 networking and internship opportunity, but also an
16 opportunity to hear from guests on a range of topics
17 impacting women in policing. In 2018, OEI initiated
18 the NYPD Women's Institute where we bridge [sic]
19 together hundreds uniformed and civilian women on a
20 regular basis to discuss areas such as financial
21 management, mental health and wellbeing, and
22 work/life balance. We're also actively engaged in an
23 effort to support employees on issues relating to
24 pregnancy and child care. We created a tool like with
25 information related to fertility, pregnancy, legal
rights, policies and procedures to help employees

3 navigate the process. In addition, as part of our
4 reasonable accommodation process, we ensure employees
5 returning to the workplace have access to lactation
6 rooms throughout the Department. We are also aware
7 of how much leadership [inaudible] culture of the
8 department. OEI conducts the [inaudible] to the
9 commanding officer to ensure the mission of promoting
10 a fair and inclusive workplace that is free from
11 discrimination and harassment as explained to our
12 Executive [inaudible] reinforce Commanding Officers
13 obligation to promote a fair inclusive work
14 environment and ensure that every opportunity is
15 taken to reinforce these concepts with supervisors
16 and employees under their command. Pertinent Patrol
17 Guide and Administrative Guide procedures, including
18 workplace discrimination, display of offensive
19 materials, and personal social media accounts and
20 policy are reviewed to reinforce the potential harm
21 such issues may cause their personnel. Our Training
22 and Awareness Unit educates employees on matters for
23 the cultural awareness and coordinates with the
24 training bureau to ensure that training related to
25 diversity, equity inclusion, equal employment
opportunity, and reasonable accommodations are

1 delivered to all personnel [inaudible]. We utilize a
2 variety of methods to conduct training of our people,
3 including in-person, group, and promotional training,
4 an online training via NYPDU [sic]. We publish
5 pamphlets and guidelines to educate our staff on
6 appropriate and inclusive workplace [inaudible]. My
7 responsibilities also include oversight of the Equal
8 Employment Opportunity Division, EEOD. This unit
9 ensures the Department's compliance with Federal,
10 State, and local laws, identifies Equal Employment
11 Opportunity problem areas, and insists in
12 [inaudible]. Through our Reasonable Accommodations
13 Unit, we respond to and address all employee and
14 applicant requests for reasonable accommodations.
15 OEI has also been the Department's primary liaison to
16 New York City Disability [inaudible]. We manage the
17 implementation of a [inaudible] NYPD which is the
18 Department's plan to make all precincts more ADA
19 [sic] accessible. We partner with disability rights
20 organizations and the Mayor's Office for People with
21 Disabilities on ways to better serve the disability
22 community. In 2019, the ERD received 252 complaints.
23 Employees can also file complaints with the United
24 States Equal Employment Opportunity Commission, the
25

3 New York State Division of Human Rights, or the New
4 York City Commission on Human Rights. Our EEO
5 investigators are Cornell certified and receive
6 specialized training from DCAS as well as specific
7 internal investigation training. We have multiple
8 levels of review across the entire process that
9 reduces the amount of discretionary decision-making
10 that any one individual has. These layers of review
11 include independent reviews by two attorneys and two
12 uniformed supervisors. Additionally, each command
13 from the NYPD has an EEO liaison. The Equal
14 Employment Opportunity Liaison Network has been in
15 existence since 1986 and includes a diverse group of
16 representatives from each command. EEO liaisons are
17 trained to provide assistance to complainants,
18 witnesses, and others regarding any equal employment
19 opportunity [inaudible]. As with every supervisor
20 and civilian manager in the Department, EEO liaisons
21 are mandated reporter [sic]. The goal of the program
22 is to provide an additional layer of protection for
23 our employees and to assist the Office of Equity and
24 Inclusion and it's ongoing mission to promote a bias-
25 free workplace and eliminate employee discrimination
within the Department by increasing the range of

1 incidents which EEOD may become aware of. Although I
2 am confident in our process, I recognize the trust
3 has impacted. To that end, I recommended we enlist
4 an outside entity to conduct an independent review of
5 our EEO processes and cases. This will add an
6 additional layer of examination to ensure that
7 objectivity and diligence have been carried out and
8 any anomalies can be addressed. In closing, while
9 our work in OEI is primarily focused on our
10 employees, it extends to our communities and plays a
11 vital role in fulfilling our mandate to serve and
12 protect residents and business owners of the City.
13 We understand that how our employees are treated and
14 feel in the workplace is not only critical to their
15 wellbeing, but also has an impact on the communities
16 we serve. As we continue to listen to the concerns
17 of our employees in areas of equity and inclusion, we
18 also listen to the concerns of the communities we
19 serve. All of New York City's first communities are
20 critical stakeholders in how we continue to improve
21 to meet the public's needs. As you know, the City,
22 the NYPD, Urban League, the FPWA, and Robin Hood are
23 presently in the midst of a reform and reinvention
24 collaborative process. In partnership with highly
25

3 regarded community leaders, we are creating enduring
4 processes, building new relationships, and sharing a
5 dialogue to ensure that community members of all
6 backgrounds play an integral role in determining the
7 future of policing in the City, lasting well beyond
8 the April 1st [sic] narrative. Many of the themes
9 throughout the course of these discussions have
10 included ideas on how to create a more inclusive and
11 equitable department. I am proud of all we've
12 accomplished thus far and where we are. However,
13 there is much more work to be done. We will continue
14 to do everything we can to make NYPD a fairer and
15 more inclusive workplace. I want to thank the
16 Council for holding this important hearing and for
17 the opportunity to discuss these issues. We look
18 forward to answering any questions you may have.
19 Thank you.

20 COMMITTEE COUNSEL: Thank you. I will
21 now turn it over to questions from the Chairs.
22 Panelists from Administration, please state unmuted
23 if possible during this questions and answer period.
24 A reminder to Chairs Torres and Adams, you will be in
25 control of muting and unmuting yourselves during this
period. Thankyou. Chair Torres, please begin.

3 CHAIRPERSON TORRES: Quickly, I want to
4 acknowledge we've been joined by Council Members
5 Menchaca, Cohen, Rose, Salamanca, and Gibson.
6 Commissioners, I want to thank you for your testimony
7 and I appreciate the clear denunciations in your
8 testimony. I want to start with a simple question.
9 A person who engaged in hate speech and explicit bias
10 online, a person who refers to people of color as
11 wild animals, wild savages, and wild beasts, does
12 such a person have a place in the Police Department?

13 FIRST DEPUTY COMMISSIONER TUCKER:

14 Absolutely not, Council Member. Certainly, I have to
15 say that I was no less shocked than anyone else on
16 this call with respect to learning the possibility of
17 not only a member of the service, but a senior member
18 of the service engaging in this kind of conduct is
19 absolutely [inaudible]. As I said in my regards.
20 It's unequivocally unacceptable, period.

21 CHAIRPERSON TORRES: If it is
22 unequivocally unacceptable, then when is the NYPD
23 going to fire James Kobel?

24 FIRST DEPUTY COMMISSIONER TUCKER: Well,
25 there's a few steps we have to take in the-- along
the way, and as we would any other investigation. We

1
2 are-- when we learned of this and it first came to
3 our attention, we immediately asked our Internal
4 Affairs Bureau to begin an investigation. That
5 investigation is still under way. Some additional
6 information based on [inaudible] that we've issued,
7 but I can assure you that when we get enough
8 information to feel satisfied that this individual
9 that we've alleged, was alleged to have engaged in
10 this outrageous conduct, once we know that, then we
11 will move with all [inaudible] to address it. I will
12 tell you that under our disciplinary matrix, the
13 penalty for this type of conduct ultimately it will
14 be termination from the Department. So, that is--
15 remains to be seen based on what we know and what we
16 learn down the road. We hope to conclude that
17 information as quickly as we can. Right now it just
18 relies on [inaudible] information from the parties
19 from whom we've requested.

20 CHAIRPERSON TORRES: Can you provide us
21 with an update on the status of the investigation?

22 FIRST DEPUTY COMMISSIONER TUCKER: Well,
23 that's it. I can-- that's pretty much about as much
24 as I can say about it. We are moving with all the
25 liberty [sic] to gather a number of conducted

1 interviews, and interviewed the individual and
2 questioned. We have in the abundance of caution
3 because of the sensitivity of the position that he
4 held, in EEO, we've moved him. We modified him
5 immediately and moved him to a location in the
6 Department where he has no contact with anyone in the
7 public, and is not responsible for any types of-- he
8 has no responsibility for any type of investigatory
9 or other-- or responsible decision-making in this
10 regard until we move on further in the investigation
11 and conclude.

13 CHAIRPERSON TORRES: See, Commissioner,
14 the concern I have and the concern that my colleagues
15 have is that we might wait indefinitely for
16 accountability that might never come. The Council
17 released what I thought was an exhaustive report
18 establishing that James Kobel was, in fact, Clouseau,
19 and that's reported. That has not been disputed by
20 the NYPD, and frankly, cannot be disputed by the
21 NYPD. The biographical commonalities between Kobel
22 and Clouseau are too coincidental to be a
23 coincidence, and according to the New York Times, the
24 NYPD found a digital photo of Clouseau on the phone
25 of James Kobel. So, given those facts, at what point

1
2 are you going to be prepared to hold Kobel
3 accountable? I'm concerned about waiting
4 indefinitely. How long do we have to wait for this
5 officer to be held accountable?

6 FIRST DEPUTY COMMISSIONER TUCKER: Well,
7 we're not even close to indefinitely, and I think you
8 would agree that we're not taking that particular
9 path. We are equally concerned about this, but there
10 are processes we have to follow. We'd like to be
11 certain when we make this decision, and we're close
12 to making that decision. So, it won't be inevitable
13 that we're continuing down the road with no action by
14 us, and more importantly, there have been nothing but
15 aggressive action turned into the investigation that
16 we're conducting. So, we will conclude it as soon as
17 we have the additional information from these
18 [inaudible] that we put out, and we'll act on it
19 immediately thereafter.

20 CHAIRPERSON TORRES: I feel like I have
21 to pressure you a little bit more, because we're
22 certain that Kobel is Clouseau. What does certainty
23 look like to the NYPD? What's the magic bullet that
24 you're searching for, and how can be sure that you'll
25 find it?

3 FIRST DEPUTY COMMISSIONER TUCKER: Oh
4 we'll find it. I mean, we're close enough now.
5 We'll find it, and we'll pursue the action that we
6 know we need to take once we do.

7 CHAIRPERSON TORRES: So, close enough,
8 what, within weeks, within months? Can you give us
9 some clarity about a timeline?

10 FIRST DEPUTY COMMISSIONER TUCKER: I
11 would say-- I can't give you a definitive time limit.
12 It certainly will not be months. I can't tell you
13 that it's going to be on January 1st. It could be
14 tomorrow. I just haven't gotten an update recently
15 with respect to-- the latest update that I've
16 received that they were still waiting some
17 information to come in. I expect and they expect,
18 investigators expect that they'll have that
19 information shortly.

20 CHAIRPERSON TORRES: You know, what I
21 find troubling is Clouseau is the tip of the iceberg.
22 You know, James Kobel posted on an online message
23 board known as "Law Enforcement Rant" under the
24 pseudonym Clouseau, and according to the New York
25 Times, message boards like these have been in
existence for more than two decades. How long has

1
2 the NYPD known of the existence of these online
3 message boards?

4 FIRST DEPUTY COMMISSIONER TUCKER: We've
5 known about the rant for probably since it existed.
6 When I learned about it-- I didn't know about it, but
7 when I did learn about it [inaudible] been around at
8 least a decade on and off, and that people who are on
9 it are police officers, not just, you know, law
10 enforcement, but individuals who are not part of law
11 enforcement as well. So, yeah, we know that the rant
12 exists, and we know that often times, members of the
13 service are on that-- posting on that site.

14 CHAIRPERSON TORRES: I don't know if I
15 heard you correctly. You said you've known for about
16 a decade?

17 FIRST DEPUTY COMMISSIONER TUCKER: I
18 have. That's when I learned about it, just as this
19 came up and I asked well how long is-- I didn't know
20 the platform existed, because I had been gone from
21 the Department for a while, so I wasn't aware of this
22 particular site. But we do have, you know, social
23 media. We review and we have rules in place, and the
24 minute we learn about conduct like this, or even--
25 which is rare thus far, no less disturbing, however.

1
2 When we do learn about it we will pursue and we do
3 pursue discipline if we have officers who are using
4 social media in ways that run afoul of their ability
5 to perform their duties effectively because they've
6 engaged in conduct that was counter to their role and
7 what the oath is that they took to serve the city the
8 public.

9 CHAIRPERSON TORRES: And you're aware
10 that members of your department are engaging in hate
11 speech and explicit bias on these online message
12 boards?

13 FIRST DEPUTY COMMISSIONER TUCKER: well,
14 I don't know that for a fact. I mean, we haven't-- we
15 don't monitor that site regularly.

16 CHAIRPERSON TORRES: You think Clouseau
17 is the only one?

18 FIRST DEPUTY COMMISSIONER TUCKER: Oh, I
19 have no--

20 CHAIRPERSON TORRES: [interposing] -
21 [inaudible] hundreds of thousands of people?

22 FIRST DEPUTY COMMISSIONER TUCKER: Well,
23 I don't know that these are the only one. You might
24 suggest that it's reasonable to assume that there are
25 others, and could agree, but that doesn't--

1
2 CHAIRPERSON TORRES: So, given the
3 probability that more than offices likely spewing
4 hate on these online message boards, have you ever
5 attempted, has the Department ever attempted to
6 monitor and investigate these message boards and
7 unmask the identities of offices on these message
8 boards?

9 FIRST DEPUTY COMMISSIONER TUCKER: Well,
10 we-- I can tell you that up until now we haven't-- we
11 haven't invested an inordinate amount of time looking
12 at this site to try and troll that site to find
13 whether or not there's a member of the service
14 engaged in posting to that site, because you wouldn't
15 necessarily know, and the real question is, how--
16 when we learn of it--

17 CHAIRPERSON TORRES: Did we lose the
18 Deputy Commissioner?

19 FIRST DEPUTY COMMISSIONER TUCKER: as a
20 practical matter in that type of an activity to try
21 and figure out who's on that site and then make the
22 connections that the Council made, what I understand,
23 quite by accident, backing into that to discover the
24 current individual who is known as Clouseau. It's
25 really time-- it takes an inordinate amount of time,

3 and so I'm not sure, and we're considering how we--
4 like, my screen and pay attention to what's on that
5 site for sure. Certainly to the extent that we in
6 many instances will get people who will-- members of
7 the service or others who will give us information
8 about conduct of officers one way or another, not
9 just in this context, and so when that happens we can
10 begin an investigation, but to unilaterally get on
11 the site and invest resources that could be used
12 elsewhere for other purposes as it relates to how we
13 serve the City, particularly in this environment,
14 isn't considered [inaudible] of what we might do
15 going forward.

16 CHAIRPERSON TORRES: I just-- I find that
17 to be a strange statement to suggest it's not-- it
18 might not be a priority for the resources of the
19 NYPD. It seems to me explicit bias corrupts
20 policing, and the NYPD has a vested interest in
21 knowing which officers have explicit bias, which
22 officers have animus against religious and racial and
23 sexual and ethnic minorities. Given that best
24 interest you have in knowing which officers have
25 explicit bias, would you acknowledge that it was a

3 mistake not to monitor this site and not to attempt
4 to unmask the identities of these officers?

5 FIRST DEPUTY COMMISSIONER TUCKER: I
6 wouldn't acknowledge that it's a mistake. As I said,
7 it hadn't been a priority, and it certainly is on our
8 radar now. What we do about it and how we go about
9 it down the road, thinking about how to monitor that
10 site and what resources we're going to dedicate to
11 doing that is still an open question.

12 CHAIRPERSON TORRES: Well, I find it
13 troubling that the NYPD has known of these message
14 boards and the hate speech on these message boards
15 for years, in fact for a decade, and the Department
16 did nothing and has only begun investigating them in
17 the wake of the City Council's report. So, I think
18 if you've done no investigations into-- this is the
19 first investigation you've done into explicit bias on
20 online message boards. Does Clouseau represent the
21 first of its kind, the first investigation of its
22 kind?

23 FIRST DEPUTY COMMISSIONER TUCKER: To my
24 knowledge, I don't know that that's the case.

25 CHAIRPERSON TORRES: If a member of the
Department communicates explicit bias on an online

3 message board, who in the NYPD is responsible for
4 investigating?

5 FIRST DEPUTY COMMISSIONER TUCKER: It
6 would be either0ig could be-- it depends on how it
7 comes to our attention. So, it could be CCRB
8 dependent on the nature of the language. It could be
9 our Internal Affairs Bureau. That's typically what
10 you would get. I mean, that's what happens now in
11 many instances, and if it comes directly to Internal
12 Affairs, it would then be referred depending on the
13 nature of the conduct and language. You know,
14 certainly CCRB as part of its four categories of
15 investigation for allegations. Certainly, this fits
16 into offensive language at a minimum, and so that
17 complaint could be referred to them, and they would
18 follow up with investigation and come back, and
19 they'd make their recommendation and come back to us.

20 CHAIRPERSON TORRES: And suppose--

21 FIRST DEPUTY COMMISSIONER TUCKER:
22 [interposing] That's one-- that's just one way.

23 CHAIRPERSON TORRES: Suppose a member of
24 the NYPD where they express explicit bias against a
25 fellow NYPD official, would that fall within the

3 purview of the Equal Employment Opportunity Office,
4 or the employment office?

5 FIRST DEPUTY COMMISSIONER TUCKER: Oh, it
6 would certainly be one of the options. But I said,
7 it could go to EEO as well. It could go to CCRB. It
8 could IAB. Wherever it goes it's going to be
9 investigated, and it depends on-- who investigates it
10 depends on the nature of the--

11 CHAIRPERSON TORRES: [interposing] Well,
12 it's fair to say that Deputy Inspector James Kobel,
13 was Equal Employment Officer for the NYPD, would have
14 been-- could have been responsible for investigating
15 the kind of misconduct for which he is presently
16 under investigation.

17 FIRST DEPUTY COMMISSIONER TUCKER: Well,
18 yeah, if we didn't know, and we didn't. if we don't
19 know that he is someone who is engaging in that
20 conduct, we just happened to be in that current
21 position now as the CO and he was the Executive
22 Officer for a number of years, but if there were no--
23 nothing in his background to suggest that he harbored
24 this type of-- if he turns out to be this individual,
25 I think you might agree it would be-- it would be
hard-pressed based on his record and based on what we

1
2 knew about him and his contacts with other members of
3 the service over and throughout his career, no one
4 would have ever imagined that he was this ill [sic].
5 And so, you know, the question is a good question,
6 but the answer to it is not that easy only because,
7 you know, you don't-- the facts don't fit that way.
8 It's not that clean. You don't end up with a
9 situation where unless you know or have some reason
10 to believe that an individual is engaged in that
11 conduct, that you learn to then take some steps to
12 address it. Very often, as I said, that information
13 could come to us in some ways. That is not the case
14 here, other than with Kobel, we didn't have any
15 inclination or no reason to suspect or believe that
16 he would be a person who was posting that hateful
17 expression, language on the site.

18 DEPUTY COMMISSIONER CHERNYAVSKY: And
19 Council Member, if I could just add, and I think
20 Commissioner Meisenholder can go into it a little
21 deeper, that there are multiple avenues or multiple
22 locations where employee on employee, for example, an
23 allegation can be made direct to the state, direct to
24 the NYPD through means of the City. but when you
25 talk about our own EEO officer, in your example, the

3 way that the process is structured internally is that
4 no one person has the ability to dictate how a case
5 goes, and I think Commissioner Meisenholder may be able
6 to shed a little light on that. So, even though any
7 one person may have these certain views that we are
8 not aware of, that one person, based on the way the
9 system is designed would not have a disproportionate
10 impact on an investigation, but I--

11 CHAIRPERSON TORRES: [interposing] But I
12 think it's-- I think it's clear from the
13 Commissioner's comment that James Kobel could have
14 potentially played a role in investigating the
15 conduct for which he himself is under investigation,
16 but I want to-- I guess the question that I have and
17 the question that everyone is how could this happen?
18 Like the comments of James Kobel are shocking to the
19 conscience, and people are wondering how could
20 someone consumed with such vitriol and bigotry be
21 appointed as one of the point people on anti-
22 discrimination in the NYPD? I'm curious to know, who
23 in the NYPD appointed James Kobel as the EEO
24 Commanding Officer?

25 DEPUTY COMMISSIONER MEISENHOLDER: So,
when I joined the office back when [inaudible] a year

1 ago, Inspector Kobel was already in position there.

2 He had served under two prior Deputy Commissioners
3 and had been there for approximately five years as
4 the Executive Officer. There was no indication until
5 now, and I say to you Chair, thank you for bringing
6 this to our attention, that he could have been
7 involved in this type of--

8
9 CHAIRPERSON TORRES: [interposing] With
10 respect, Commissioner, my question was who appointed
11 him? Was that you, or?

12 DEPUTY COMMISSIONER MEISENHOLDER: No, it
13 was-- it would have been under Commissioner Neldra
14 Zeigler [sp?]. And did Commissioner Shea have a role
15 in appointing James Kobel at all?

16 DEPUTY COMMISSIONER MEISENHOLDER: To the
17 EEO Division, no. He was not the Police Commissioner
18 at the time.

19 CHAIRPERSON TORRES: And before promoting
20 Kobel to the Commanding Officer of EEO, did the NYPD
21 conduct a background check to determine if he had
22 said or done anything disqualifying in his past?

23 DEPUTY COMMISSIONER MEISENHOLDER: Yes,
24 we review all executive promotions.

25 CHAIRPERSON TORRES: And the NYPD--

3 DEPUTY COMMISSIONER MEISENHOLDER:

4 [interposing] [inaudible] Go ahead.

5 CHAIRPERSON TORRES: Well, and clearly,
6 the NYPD new of the message boards--

7 DEPUTY COMMISSIONER MEISENHOLDER:

8 [interposing] Yes.

9 CHAIRPERSON TORRES: when James Kobel was
10 under consideration for EEO Commanding Officer. Did
11 you ask James Kobel whether he had ever engaged in
12 hate speech on online message boards? You were aware
13 of those message boards, and this could be a question
14 that you would ask in a background investigation.
15 Was that question asked?

16 DEPUTY COMMISSIONER MEISENHOLDER: No.

17 CHAIRPERSON TORRES: Should that question
18 be asked in future background investigations under
19 oath?

20 DEPUTY COMMISSIONER MEISENHOLDER: I
21 think it is a question that should be added to anyone
22 that joins any sensitive position in the Police
23 Department, and especially the EEO.

24 CHAIRPERSON TORRES: It just seems to me,
25 you know, if you're an agency committed to promoting
diversity and equity and fighting discrimination, who

3 you appoint as your EEO Officer should pass the most
4 rigorous background investigation, should be beyond
5 reproach, should be an exceptional officer, not a
6 run-of-the-mill officer. And so what uniquely
7 qualified James Kobel to be the EEO Commanding
8 Officer? It would seem to me you would want to
9 appoint someone who has a demonstrated commitment to
10 fighting discrimination and promoting equity. Was
11 there anything in Kobel's background that suggested
12 that he had a commitment to fighting discrimination
13 that uniquely qualified him for this delicate
14 position?

15 DEPUTY COMMISSIONER MEISENHOLDER: So,
16 during this tenure as Executive Officer in EEO he
17 worked with other members of the team, including
18 agency attorneys that are assigned to our office to
19 address a number of issues related to EEO throughout
20 the Department. So, we made improvements to our
21 policies in terms of religious head coverings, facial
22 hair, lactation rooms, any number of things that
23 impact equal employment and reasonable accommodations
24 throughout the Department. So, as part of the team
25 in EEO, which is executive staff and attorneys, then

1
2 yes, he did take part in driving some of those
3 improvements.

4 CHAIRPERSON TORRES: I guess my question
5 is how did he end up there in the first place? Like,
6 did someone--

7 DEPUTY COMMISSIONER MEISENHOLDER:
8 [interposing] I don't know the answer.

9 CHAIRPERSON TORRES: determine-- someone
10 determines that James Kobel is such-- is uniquely
11 qualified to be part of this office, what I want to
12 know is how could you possibly come to that
13 determination. What exceptional thing did he do in
14 his career that justified his appointment as an
15 Executive Officer, and then ultimately as a
16 Commanding Officer of Equal Employment-- of the Equal
17 Employment Office?

18 FIRST DEPUTY COMMISSIONER TUCKER: Let me
19 just say that-- I think your assumption is not the
20 way in which members of-- we have like 800 senior
21 executives in the Department, and it's the sum total
22 of their careers and things that happened throughout
23 their careers that give-- that's on the record about
24 who this individuals is. So, [inaudible] careers and
25 why is he being-- when you make captain, we're going

3 to send them to this precinct or that prescient or
4 this assignment or that assignment. The presumption
5 is looking at his record or her record that you get a
6 sense of who they are, certainly if we-- and so
7 there's sometime the absence of the record, and even
8 if you ask the questions, you may not get the answer
9 that you're looking for. So, the determination of--
10 is not-- you look at the assignment, if this person
11 has been a good administrator, depending on what
12 assignments this person had, whether he was a
13 precinct Commanding Officer, when he was an Executive
14 Officer, and other assignments around, you know,
15 throughout the Department. And this is how it works
16 with respect to how people move around to different
17 assignments and how they get promoted based on merits
18 of their activity and the way in which they've
19 conducted themselves generally and specifically. So,
20 you wouldn't necessarily know, and especially in this
21 case. There was no reason to know or believe or
22 assume that he was any more likely to be the person
23 that we believe him to be now, than anyone else in
24 the Department. And so we wouldn't necessarily, you
25 know, make that assignment and now as we look back
think, well, wow, if we'd asked that question, and I

3 don't even think we believe [inaudible]. If he is
4 the person we think he is, and if we'd asked-- even
5 if we'd asked him that question and his record
6 doesn't demonstrate that there's any reason we should
7 ask that question, that's he's going to say, "Oh,
8 yeah, I'm that guy." It's just not going to happen.
9 So, I think that's-- so your question is a good
10 question, but I think it doesn't jive with realities
11 of way people are assigned in the Department, and as
12 a result it's hard to really, you know, make that
13 determination now in hindsight and, you know, say
14 well--

15 CHAIRPERSON TORRES: [interposing] That's
16 the point of it. I want to assess what went wrong,
17 and I would recommend asking the question under oath
18 and asking the question under the [inaudible] right?
19 It could be the case that there was no reason to
20 think James Kobel was a virulent bigot, but it's not
21 clear to me that there was any reason to think that
22 he was uniquely qualified in the EEO office, and I
23 have not heard what in his background uniquely
24 qualified him to play this role that should only be
25 reserved for exceptional, irreproachable officers,

1 but I don't want to dwell on this. Are you familiar
2 with Qanon?
3

4 FIRST DEPUTY COMMISSIONER TUCKER:

5 Familiar with?

6 CHAIRPERSON TORRES: Qanon.

7 FIRST DEPUTY COMMISSIONER TUCKER: No,
8 I'm not. According to the New York Times, Qanon is
9 the umbrella term for sprawling spider web of right-
10 wing internet conspiracy theories with anti-Semitic
11 and anti-LGTBQ elements that falsely claim the world
12 is run by a secret cabal of pedophiles who worship
13 Satan who are plotting against Donald Trump.

14 CHAIRPERSON TORRES: In your view, does a
15 person who associates with that kind of conspiracy
16 moment, does that kind of person belong in the NYPD?

17 FIRST DEPUTY COMMISSIONER TUCKER: I
18 would think not.

19 CHAIRPERSON TORRES: Are you aware that
20 one of the officials in your Department, Sergeant
21 Edward Mullins appeared on television with a Qanon
22 mug, associated with one of those conspiracy
23 movements?

24 FIRST DEPUTY COMMISSIONER TUCKER: No,
25 I'm not aware of that.

3 CHAIRPERSON TORRES: And if were true,
4 which it is, do you think he should be fired for
5 associating with a conspiracy movement that traffics
6 in hate?

7 FIRST DEPUTY COMMISSIONER TUCKER: Well,
8 Mullins is a union [sic] [inaudible]--

9 CHAIRPERSON TORRES: [interposing] But
10 he's also on the payroll of the NYPD. So I'm not
11 asking about his role at the SBA. That's beyond your
12 control, but he's on your payroll, and he associates
13 with a known anti-Semitic, anti-LGBTQ conspiracy
14 movement, and you've agreed that such a person has no
15 place in the NYPD. So, my question, just like I
16 asked about Kobel, when is Ed Mullins going to be
17 held accountable?

18 FIRST DEPUTY COMMISSIONER TUCKER: Well,
19 we don't know. I don't know for sure. We haven't
20 investigated it, and I don't know that he is. I
21 couldn't tell you.

22 CHAIRPERSON TORRES: You have not
23 investigated-- you're not investigating Ed Mullins?

24 FIRST DEPUTY COMMISSIONER TUCKER: No, we
25 haven't. We haven't begun-- as far as I know, we

1 haven't invest-- we don't have an investigation into
2 Ed Mullins in that capacity.

3
4 CHAIRPERSON TORRES: So, we've heard
5 otherwise. Obviously, as you know, in April of 2020
6 Sergeant Mullins directed an epithet--

7 DEPUTY COMMISSIONER CHERNYAVSKY:
8 [interposing] Council Member, if I may--

9 CHAIRPERSON TORRES: [interposing] Yeah.

10 DEPUTY COMMISSIONER CHERNYAVSKY: Maybe
11 you both may be speaking past each other. I think
12 what the Commissioner mentioned is an investigation
13 relative to what you just mentioned about Qanon, not
14 about the letter that was sent by you a couple of
15 months ago making certain allegations. If I can
16 clarify that.

17 CHAIRPERSON TORRES: So, there's no
18 investigation to his association with Qanon, is that
19 what you're telling me?

20 DEPUTY COMMISSIONER CHERNYAVSKY: I don't
21 believe that was an allegation that was made in the
22 letter, unless you can correct me if I'm wrong. I
23 haven't read the letter that was sent--

24 CHAIRPERSON TORRES: [interposing] It's
25 not a question whether it was in my letter--

3 DEPUTY COMMISSIONER CHERNYAVSKY:

4 [inaudible]

5 CHAIRPERSON TORRES: It's in the public
6 record.

7 DEPUTY COMMISSIONER CHERNYAVSKY: No, no,
8 I'm saying, this is the first--

9 CHAIRPERSON TORRES: [interposing] No, but
10 it-- I suspect you read the papers. I suspect you
11 watch televisions. It is in the public record that
12 Edward Mullins appeared on televisions with a Qanon
13 mug, and Qanon is a right-wind conspiracy movement
14 that traffics in anti-Semitism and anti-LGBTQ
15 bigotry. That does not justify an investigation in
16 the NYPD?

17 DEPUTY COMMISSIONER CHERNYAVSKY: I mean,
18 the allegation was not made. I think there may have
19 been in that article back in that time about a mug
20 being in the photo or in the background, but this
21 sort of allegation about an association with the
22 group has not been made. There were other
23 allegations that were made, and that--

24 CHAIRPERSON TORRES: [interposing] Why do
25 you have to wait-- I don't understand. Why do you
have to wait for an allegation if it's seen on

3 television or read in the papers, why can't that be
4 the basis for an investigation? Why does that have
5 to be a formal allegation?

6 DEPUTY COMMISSIONER CHERNYAVSKY: I mean,
7 to start with we're talking about a mug. It's not an
8 expression of a view, it's not an outward
9 association. We're talking about a coffee mug in the
10 background. I mean, that in itself as a trigger? I
11 mean, again, I mean, what we're saying is--

12 CHAIRPERSON TORRES: [interposing] So
13 let's-- let me change it. What if it was a swastika?
14 What if it was a KKK hoodie? That doesn't justify
15 the NYPD--

16 DEPUTY COMMISSIONER CHERNYAVSKY:
17 [interposing] I could-- I don't--

18 CHAIRPERSON TORRES: [interposing] Like,
19 at what point do you investigate?

20 DEPUTY COMMISSIONER CHERNYAVSKY: I think
21 those types of symbols carry a different weight based
22 on definitions and hate speech and hate crime that I
23 don't believe we-- the organization we're talking
24 about on a coffee mug bearing-- whether it's a
25 symbol, I'm not really that familiar with it, so I
apologize, but whether it's a symbol or letters, I

3 don't think that carries the same weight in terms of
4 what our laws are and the way our laws are structured
5 as a swastika.

6 CHAIRPERSON TORRES: I want to move on.
7 It's equally--

8 DEPUTY COMMISSIONER CHERNYAVSKY:
9 [interposing] [inaudible] swastika on a wall or on
10 property is actually a crime in the penal law. It's
11 a hate crime.

12 CHAIRPERSON TORRES: I mean, I-- well,
13 some of us would consider Qanon to be unacceptable
14 behavior and unbecoming of a police officer, but I
15 want to move on--

16 DEPUTY COMMISSIONER CHERNYAVSKY:
17 [interposing] We're not advocating that that's
18 acceptable, but I'm just saying that wasn't a trigger
19 for--

20 CHAIRPERSON TORRES: [interposing] Well,
21 by not investigating it, the NYPD's accepting it, but
22 I want to move on. In April of 2020 Sergeant Mullins
23 directed and epithet towards then Commissioner
24 Barbot, and in September more than five months after
25 Sergeant Mullins attack on Commissioner Barbot,
Commissioner Shea told me in a written letter that

1
2 the Police Department's investigation into Mullins'
3 behavior is still ongoing, and I guess-- I need you
4 to explain to me why it would take five months or now
5 eight months to investigate something that Ed Mullins
6 himself openly admits to doing. He did it publicly,
7 unapologetically. What is there to investigate?

8 FIRST DEPUTY COMMISSIONER TUCKER: First
9 of all, I didn't realize that there was investigation
10 underway for that particular issue. Not aware of it,
11 so I can't speak to why it's taking so long. I don't
12 have an answer for you today. I can get back to you
13 when I find out what the circumstances were and
14 exactly what the facts were. I'm happy to do that.

15 CHAIRPERSON TORRES: Look, I'm going to
16 move on. I'm going to allow my colleagues to answer
17 questions, but I feel just the lack of investigations
18 into some of the misconduct that I laid out and the
19 leisurely pace of these investigations, right, gives
20 the troubling impression that the NYPD is complacent.
21 When it comes to fighting bigotry in its own ranks,
22 and that to me will only deepen the credibility
23 crisis of the Department. I want to allow Chair Adams
24 to ask a few questions.

3 CHAIRPERSON ADAMS: Thank you so much,
4 Chair Torres, and hello again. First Deputy
5 Commissioner and Deputy Commissioner, and of course,
6 our Commissioner for Legal Matters, welcome and thank
7 you for your testimony thus far. I have to admit the
8 responses to Chair Torres' questions have left me a
9 little baffled this morning, or this afternoon now.
10 I'm a little disappointed in the responses. Let me
11 just start by asking and going back a little bit on
12 what Chair Torres was asking when it comes to
13 evaluating and vetting leaders of OEI and EEO, I
14 heard that, you know, it's the record or their
15 record. So if there's nothing in their record that
16 would raise a flag is what I'm understanding so far.
17 What is it-- what else is it about one's record that
18 would propel them to a role of leadership in OEI? Is
19 there any specific that they might have done that is
20 something paramount in a community, something that
21 has put them, you know, on some kind of a clear path
22 of something terrific that they've done to elevate
23 them and give them the status of a leader in OEI?
24 What specifically in that record? Is it the number
25 of years, and if it's just tenure [inaudible] got an

3 issue with [inaudible] has to appear or would appear
4 in one's record to propel someone to leadership.

5 DEPUTY COMMISSIONER MEISENHOLDER: Sure.

6 So one thing I'd like to mention is [inaudible] we
7 have in place now in OEI. So, to give you a sense of
8 our Executive Staff, first I'd like to mention that
9 the Director of EEO is a former JAG Navy attorney who
10 spent the vast majority of his career with the Navy
11 working on sexual harassment reforms for the military
12 under Senator Gillibrand's leadership. So that to me
13 was very important in terms of bringing on board
14 someone that would legally qualify and that had a
15 long history with EEO in the Department. Our
16 Assistant Commissioner, Monica Brooker, is a Clinical
17 Psychologist with a background in Organizational
18 Psychology and has decades of research on issues
19 around equity inclusion, and she's also an adjunct
20 professor. The Commanding Officer of the Office of
21 Equity and Inclusion is Inspector Raymundo Mundo. He
22 served in both the 34 precinct in PSA5 as the
23 Commanding Officer and he showed his commitment and
24 willingness to work with the diverse communities in
25 both of those precincts. And lastly, our Director of
Evaluations-- I'm sorry, our Director of Training,

3 Director Cruz Tapia, has over 30 years of experience
4 with the Department and has served in a number of
5 roles and is very committed to outreach and to
6 awareness around issues, around diversity, equity and
7 inclusion. So, what do I look for? I look for
8 knowledge, awareness, passion, commitment to drive
9 forward the changes that need to happen in the Office
10 of Equity and Inclusion. Of course, we examine, you
11 know, prior history with the Department and
12 experience and other, you know, jobs, and so we
13 consider all of that when we make decisions on who is
14 on the team in the Office of Equity and Inclusion.

14 CHAIRPERSON ADAMS: Thank you for that
15 answer, and the backgrounds that you just laid out
16 for me are stellar backgrounds deserving of
17 leadership status. Was James Kobel's background
18 equal to any of the representation that you just gave
19 me of leadership?

20 DEPUTY COMMISSIONER MEISENHOLDER: So,
21 when I joined OEI, as I mentioned before, Inspector
22 Kobel had been there for several years, and he had
23 taken part in many of the initiatives that we have
24 driven forward as an agency to be committed to EEO
25 and Equity and Inclusion. His employment background

1 with the NYPD, as I mentioned, there was no
2
3 indication prior to this most recent one that he,
4 assuming it is him, had the thoughts and ideas and
5 viewpoints that had been expressed by Clouseau.

6 CHAIRPERSON ADAMS: So, how then would
7 one's performance be judged in these units, in OEI or
8 EEO? How would their performance be judged or
9 measured?

10 DEPUTY COMMISSIONER MEISENHOLDER: I
11 assume you're referring to the Executive team?

12 CHAIRPERSON ADAMS: Yes.

13 DEPUTY COMMISSIONER MEISENHOLDER: So, in
14 terms of Executive Staff, then we all work together
15 as a team to provide feedback to each other on a
16 regular basis. We are very much team-centered in our
17 office, and I also am in a position to evaluate each
18 of my employees throughout the course of their time
19 in OEI and EEO.

20 CHAIRPERSON ADAMS: Okay, so let me just
21 move on then. Once the disclosure of the behavior of
22 James Kobel became apparent, shall we say, the way
23 that this message board has been portrayed today is
24 one that is pretty much been under the radar. We
25 know it's there for about a decade or so and we're

1 just, you know, letting it happen, letting the
2 comments go on and on. I'm just curious, as we sit
3 here today, have any changes been made to the
4 monitoring process of that particular message board
5 or really any other message boards that the NYPD is
6 aware of and participation like this? Is there any
7 further monitorization [sic] or another level,
8 perhaps, of monitorization. I'm saying because I
9 know that there is monitorization of the internet
10 when it comes to gang penetration, when it comes to
11 the way that we look at now, especially with the
12 proliferation of gun violence out there. We take a
13 look at the gangs, and we take a look at them under
14 microscopic-- under a microscope, really, to NYPD's
15 credit, when we take a look at their behavior, where
16 they're going, the music they're listening to and
17 everything else to get to the bottom of where they're
18 going tomorrow. So I just want to be clear and
19 understand what the NYPD is doing now that we know
20 about this message board, now that we know the damage
21 that it's done, now that we know that there may be
22 others who are, quite frankly, under the radar. I
23 have no doubt about that, by the way. What are we
24 doing now? Is there a level, the same type of level
25

3 in monitoring this message board and others like it
4 the way that NYPD monitors, let's say, the gang
5 message boards.

6 FIRST DEPUTY COMMISSIONER TUCKER: To my
7 knowledge, the message board has been taken down.

8 CHAIRPERSON ADAMS: Down?

9 FIRST DEPUTY COMMISSIONER TUCKER: Yes.
10 And so, I don't know if it'll come back up, but I
11 believe it's taken down.

12 CHAIRPERSON ADAMS: Okay, well that's
13 good news. So, let me follow up with this, what-- I
14 just heard my colleague ask about Sergeant Mullins
15 who's got a history of bad behavior. We know that.
16 You know that. What exactly are the parameters for
17 the NYPD to investing-- to initiate investigations of
18 explicit hate or bias? What are your parameters?
19 Because we're hearing that you didn't know that there
20 was an investigation going on with that regard.
21 There are other "bad apples" in the barrel. What are
22 we doing exactly to get to the bottom of this? We've
23 got so much going on and so much work to do. I just
24 want to get a feel for what the parameters are for
25 the bad behavior? How is it rooted out proactively
instead of reactively?

3 FIRST DEPUTY COMMISSIONER TUCKER: Well,
4 you're talking about Mullins and you're talking the
5 cup?

6 CHAIRPERSON ADAMS: Yes, I am.

7 FIRST DEPUTY COMMISSIONER TUCKER: Yeah,
8 well--

9 CHAIRPERSON ADAMS: [interposing] A lot of
10 us know what that cup implicated and what it means
11 and what it stands for and all those things, and to,
12 you know, to hear that it's just like, oh, business
13 as usual, it's disturbing to me.

14 FIRST DEPUTY COMMISSIONER TUCKER: Well,
15 again, I think because as Commissioner Chernyavsky
16 pointed out, when it comes-- the conduct, what the--
17 really, the real question is just because you see a
18 cup in the same space as you see the individuals
19 doesn't necessarily suggest that this person is an
20 endorser of that particular-- whatever that is on the
21 cup. So, I don't know that we start an investigation
22 about that.

23 CHAIRPERSON ADAMS: Commissioner, do you
24 believe that? Do you really believe that? That if I
25 have something in my background in my workspace on

1
2 my-- where I am now in the my home workspace, that
3 if--

4 FIRST DEPUTY COMMISSIONER TUCKER:

5 [interposing] I don't know-- see, I don't know where
6 he was. I don't know where he was when this
7 photograph ws taken. I don't know what the context of
8 it was at all. So, I'm only speaking to you from
9 what I know, what my knowledge base is what right
10 now, but I'm suggesting that if it's-- I don't know.
11 If the cups on the table and I'm sitting there and
12 this bottle of Big Win Water that is [inaudible] to
13 me and that that says something about how I feel
14 about this water, and am I endorsing it? Not
15 necessarily so. so, you know, I think when we're
16 talking about an investigation, I mean, you know--
17 there's a way to go about making determinations as to
18 whether an investigation has merit and you pursue it,
19 but not on a whim. I mean, we don't ever go into
20 investigations on, you know, that way. So, all I'm
21 suggesting is that if, in fact, you know, he was
22 heard to endorse this organization, then that
23 certainly brings us into the purview of what our
24 rules and regulations suggest in the Patrol Guide

3 about officers-- members in service conduct, and we
4 can certainly look into that and report [sic].

5 CHAIRPERSON ADAMS: Yeah. Yeah. I'm
6 only asking, because you know, I'm trying to get down
7 to the bottom of, you know, history and histories of
8 bad behavior, and maybe we can stop things from
9 happening before they get to a certain level. So,
10 we're looking at the history of bad behavior on one
11 instance when it comes, you know, to that individual.
12 When we take a look at James Kobel, along the same
13 lines, do we know whether or not he engaged in any
14 conduct or made any statements during his career that
15 may have revealed hateful or explicitly biased views
16 the way that we know that Sergeant Mullins has?

17 FIRST DEPUTY COMMISSIONER TUCKER: No,
18 I'm saying to you that Mullins, I mean, Kobel has
19 not-- I said I thought pretty clearly earlier that
20 there was nothing in his background to suggest that
21 he is-- if he's this guy, then he's-- that's serious.
22 I mean, and it has implications for the way in which--
23 - and what we've learned during the investigation.
24 So, I can't go into all of that any of that--

25 CHAIRPERSON ADAMS: [interposing] Yeah,
yeah.

3 FIRST DEPUTY COMMISSIONER TUCKER: to be
4 honest, but-- and as I said, we are getting-- you
5 know, we're getting to the point where we'll be able
6 to make a determination definitely, which is what we
7 want to do before we take action.

8 CHAIRPERSON ADAMS: Yeah.

9 FIRST DEPUTY COMMISSIONER TUCKER: What
10 we should do, okay? And so we're pursuing it that
11 way, and we're not going to rest on our laurels. I
12 know currently councilman-- Council Member Torres
13 thinks that we will, but we won't, and so that's all
14 I'll say. I mean,--

15 CHAIRPERSON ADAMS: [interposing] Okay.

16 FIRST DEPUTY COMMISSIONER TUCKER: We
17 will act when we need to, and trust me, if it is this
18 individual we will act swiftly and in a very serious
19 manner.

20 CHAIRPERSON ADAMS: Okay, I understand.
21 I guess that my frustration is that it seems that we
22 are talking in sense, again, of reactive measure, and
23 we're not really speaking in sense of pro-active
24 measure. There are things that can be done. There
25 are ways to protect the institution, if you will,
that I just don't see going on especially in this--

1 we've got the office, we've got OEI. We've got
2 people in place to handle situations, but it seems to
3 me that it's after the fact, and I'd like to just
4 hear some more of what's happening to prevent more
5 James Kobels, because I frankly believe that there
6 are more out there that you don't see that are having
7 a significant impact and that are taking those
8 feelings with them on the job on a daily basis as we
9 speak right now, that are influencing their partner's
10 behavior, and influencing what goes on in our
11 communities throughout the City of New York. I
12 happen to believe that. So I would just like to have
13 more of a comfort level of what the NYPD is doing
14 proactively to number one, get these people off the
15 force, get things turned around, and moving in a more
16 positive area so that we can kind of change some
17 things, and I'm sure you would like to do that as
18 well.
19

20 FIRST DEPUTY COMMISSIONER TUCKER:

21 [interposing] No question. No question--

22 CHAIRPERSON ADAMS: [interposing] Just
23 like more comfort level to know what's going on
24 proactively.
25

3 FIRST DEPUTY COMMISSIONER TUCKER: Well,
4 if, you know, you say influencers, that's an active
5 word, and so for me, if I'm engaging in conduct that
6 is-- suggests that I'm trying to recruit or pull
7 people in that direction, that is something--

8 CHAIRPERSON ADAMS: [interposing] It
9 doesn't even need to be that. I'm not even going
10 that deep. I'm speaking about subliminal messages,
11 even. I've got a degree in psychology. Things can
12 happen in my speech that can influence somebody else
13 in a moment's notice, I know that, and everybody
14 knows that. Everybody has the gift of speaking
15 things that influence other people without
16 necessarily being that blatant about it and say, "Hey
17 come with me, do this, and join that." So, I'm
18 talking along those lines.

19 DEPUTY COMMISSIONER CHERNYAVSKY: I
20 think, Council Member, if I may,--

21 CHAIRPERSON ADAMS: [interposing] Sure.

22 DEPUTY COMMISSIONER CHERNYAVSKY: A
23 number of the initiatives that Commissioner
24 Meisenholder mentioned with her opening comments,
25 which you know I'll refer back to her to add to, to
further elaborate on, are proactive steps. The

3 discipline matrix and the level of severity and de-
4 escalation and the level of severity which would
5 treat such comments if we find them and we prove them
6 is something that's prospective in the sense of yes,
7 it's reactive when we actually find out it happens,
8 but b putting out this matrix and putting such a
9 severe penalty on it, it acts as a deterrent effect
10 prospectively to prevent people from actually
11 engaging in this type of [inaudible]. Commissioner,
12 I think would you--

13 DEPUTY COMMISSIONER MEISENHOLDER: Yeah,
14 thank you for the question. So, in terms of EEO, as
15 an agency there are numerous efforts that we make in
16 order to ensure our employees understand their rights
17 and responsibilities around EEO. So, all of our
18 employees receive EEO training which talks about the
19 laws surrounding EEO, the expectations for our
20 employees around that. They also receive training in
21 sexual harassment and in EEO [inaudible] which
22 involves single-sex facilities. There are a number
23 of discretionary training opportunities that we have
24 as well. We also can take part in training that DCAS
25 offers around unconscious bias, inclusive behavior,
and the like. We take part in those as well, and as

1 I mentioned, our EEO investigators are Cornell
2 certified in EEO investigations. That's an important
3 thing that everyone should recognize. In terms of the
4 work that we're doing in equity and inclusion,
5 Commissioner Tucker mentioned implicit bias training.
6 We train all of our uniformed workers in implicit
7 bias. We also went a step further and we worked with
8 partners in academia to evaluate that training. We
9 are now considering what the next iteration of that
10 training looks like. In addition, we recently are in
11 the middle of implicit bias training for our civilian
12 workforce. That is something that we're working on
13 as well. We are taking efforts to address bias in
14 other ways. For instance, we are soon going to start
15 training referred to as ABLE, so Active Bystander Law
16 Enforcement. So, that is something that PD is
17 investing in that provides our employees the
18 opportunity to have peer to peer reinforcement of
19 issues that they see when they come up. So these are
20 all preventative measures that we're taking, and I'd
21 also like to remind everyone of some of the things
22 that I mentioned in our testimony in terms of the
23 employee forums that we're having on race and law
24 enforcement. These are critical discussions that
25

1 really focus on very difficult topics, and one
2 actionable item that's come out of that thus far is
3 that we are in the process of creating a curriculum
4 for our most recent recruit class on race in law
5 enforcement. We are also thinking about training in
6 terms of subtle [sic] acts of exclusion or sometimes
7 people refer to that micro-aggressions. So, beyond
8 everything that we are doing in EEO, we're also doing
9 a number of things in OEI, and that list was not
10 exhaustive, in order to move the agency forward in
11 the areas of diversity, equity, and inclusion.

13 CHAIRPERSON ADAMS: Thank you. I just
14 have a couple more questions, and then I'll-- I'll go
15 back to the Chair and we'll let our colleagues in
16 here. Do you-- do any of you consider a person like
17 James Kobel rare in the position that he was in at
18 that level of management? Do you consider him rare?

19 FIRST DEPUTY COMMISSIONER TUCKER: In
20 what respect when you say rare?

21 CHAIRPERSON ADAMS: In the respect that
22 there are probably not more like him at that level in
23 that unit?

24 FIRST DEPUTY COMMISSIONER TUCKER: In
25 that unit?

3 CHAIRPERSON ADAMS: Yes.

4 FIRST DEPUTY COMMISSIONER TUCKER: Well,
5 I don't think we have any reason to suspect or
6 believe that the others there, any other people not
7 only there but elsewhere in the Department that are
8 exhibiting that same type of behavior. But we don't
9 know that. But I think it's fair to say, if we're
10 talking about EEO that based on the descriptions of
11 personnel that Tanya just recited, yeah, I mean,
12 absolutely not I would say. And so yeah, I mean, you
13 shouldn't assume that because of-- because he exists
14 that there are others like him, and there may be, but
15 we don't know that.

16 CHAIRPERSON ADAMS: Okay.

17 FIRST DEPUTY COMMISSIONER TUCKER: And
18 remember, I mean, again, he was someone who would not
19 have been on our radar almost ever, but for this, you
20 know, the service thing on that site.

21 CHAIRPERSON ADAMS: Okay. And I guess my
22 final question, we'll just take the Department in
23 general. How does the Department actually handle
24 accusations of officers who associate with groups
25 that espouse hateful ideologies or those who may have

3 a history of explicitly racist, misogynistic or other
4 hateful conduct?

5 FIRST DEPUTY COMMISSIONER TUCKER: To the
6 extent that we become aware of it--

7 CHAIRPERSON ADAMS: [interposing] Yes.

8 FIRST DEPUTY COMMISSIONER TUCKER: then
9 we would look into it. We would investigate it, and
10 we would hold them accountable because we have rules
11 that clearly prevent them or suggest that they not be
12 engaged in any kind of activities as those that you
13 just described.

14 CHAIRPERSON ADAMS: I guess I'll--

15 FIRST DEPUTY COMMISSIONER TUCKER: Again,
16 you know, serious, very serious and we will deal with
17 them based on what the presumptive penalties provide,
18 and that would be very serious, and depending on the
19 facts, obviously, in each case, ultimately
20 termination would be-- there's no place for anyone
21 like that in this agency, providing the services that
22 we try to provide and have to provide for the
23 citizens of the city. So, yeah, if anyone-- if we
24 learn that that's the case, we're going to pursue it,
25 and we will hold them accountable. We have in the
past and we will continue to do that.

3 CHAIRPERSON ADAMS: Okay. I'm going to
4 stop there. I may have a second round, but thank you
5 very much for your testimony, and again, it's very
6 nice to see the three of you today. Thank you so
7 much.

8 FIRST DEPUTY COMMISSIONER TUCKER: Same
9 here. Thank you.

10 COMMITTEE COUNSEL: Thank you, Chairs. I
11 will now call on Council Members in the order that
12 they have used the Zoom raise hand function. If you
13 would like to ask a question and you have not yet
14 used the Zoom raise hand function, please do so now.
15 Council Members, you will have a total of five
16 minutes to ask your question and receive an answer
17 from the panelist. The Sergeant at Arms will keep a
18 time and will let you know when your time is up.
19 Once I have called on you, please wait until the
20 Sergeant has announced "you may begin" before asking
21 your question. I'll take a look to see if any
22 Council Members have any raised hands on Zoom. I
23 don't believe anybody else does. Chairs, do you have
24 any follow up questions?

25 CHAIRPERSON TORRES: I do. Give me a
moment.

3 COMMITTEE COUNSEL: Actually, we have a
4 question from Council Member Miller, if you want to
5 take that first?

6 CHAIRPERSON TORRES: Council Member
7 Miller?

8 SERGEANT AT ARMS: Time starts now.

9 COUNCIL MEMBER MILLER: I'm
10 simultaneously two hearings and whatever. I've got
11 three different events going on. I guess my hand was
12 raised in the wrong place, but certainly, I want to
13 have several questions. And first one would be, as a
14 matter of collective bargaining, clearly that
15 dictates any form of discipline that happens, and I
16 know you said that there's ongoing investigations,
17 but is there anything in collective bargaining given
18 the severity of the implications here to prevent the
19 Deputy Inspector from being taken out of service?

20 FIRST DEPUTY COMMISSIONER TUCKER:
21 Council Member, can you-- I missed the last part of
22 what you said.

23 COUNCIL MEMBER MILLER: Is there
24 anything--

25 FIRST DEPUTY COMMISSIONER TUCKER:
[interposing] [inaudible] last part.

3 COUNCIL MEMBER MILLER: Deputy Inspector
4 from being removed from services, from service now?

5 FIRST DEPUTY COMMISSIONER TUCKER: Yes.
6 I mean, we haven't determined. We're engaged in
7 investigation, and as soon as we conclude it we'll
8 make a decision about what the penalties if he's
9 found--

10 COUNCIL MEMBER MILLER: [interposing] So,
11 according to--

12 FIRST DEPUTY COMMISSIONER TUCKER: to
13 engage in.

14 COUNCIL MEMBER MILLER: According to the
15 collective bargaining agreement, what actions would
16 allow, which would force or permit and officer or
17 anyone to be removed from service immediately?
18 Clearly, there are a few things that say that
19 irregardless [sic] of the investigation, considering
20 the severity of the charges, that they're removed
21 from services.

22 FIRST DEPUTY COMMISSIONER TUCKER: Well,
23 I guess I'm-- the reason I'm-- listen, police
24 officers are no less entitled to due process than
25 anyone else, so--

3 COUNCIL MEMBER MILLER: Is this one of
4 them? It's good to see you, Commissioner, but is
5 this-- in the interest of times, is this one of those
6 situations that he could have been removed from
7 service?

8 FIRST DEPUTY COMMISSIONER TUCKER: No,
9 no, no. I mean, he-- due process applies--

10 COUNCIL MEMBER MILLER: No?

11 FIRST DEPUTY COMMISSIONER TUCKER: Due
12 process applies across the board. I mean, we can't
13 cherry pick. We can't decide that we're going to--
14 and so we don't make unilateral decisions in haste.

15 COUNCIL MEMBER MILLER: Does the
16 collective bargaining agreement, does that allow that
17 to happen? Is this an anomaly that you can't just
18 fire someone that you feel strongly enough from
19 public reactions or whatever the actions was or
20 whatever they done that-- stealing, if you get caught
21 stealing you get-- you're in a bad shoot in the case
22 there. Is there anything that someone could be fired
23 for immediately or immediately taken out of service,
24 immediately suspending, pending?

25 FIRST DEPUTY COMMISSIONER TUCKER: If you
engage in--

3 COUNCIL MEMBER MILLER: [interposing] What
4 does collective bargaining allow you to do other than
5 transfer this guy? Because that seems to be really
6 nothing.

7 FIRST DEPUTY COMMISSIONER TUCKER: So,
8 just to go back to Kobel and I guess in terms of your
9 interest in sort of what we can do. We have done
10 what we thought and believe we could do in light of
11 an allegation or series of allegations about his
12 conduct, and what we've done is in large part because
13 of his position in EEO as the CO of that sensitive
14 assignment, we modified, and we do that often with
15 officers. We take them out of play--

16 COUNCIL MEMBER MILLER: [interposing]
17 Okay.

18 FIRST DEPUTY COMMISSIONER TUCKER: and
19 then pending our investigation of the information
20 that we get, we would then move along in the process.
21 Assuming he, we determine that he is, then we would
22 move forward.

23 COUNCIL MEMBER MILLER: Okay.

24 FIRST DEPUTY COMMISSIONER TUCKER: But
25 again, that's all part of due process. That's all
part of--

3 COUNCIL MEMBER MILLER: Okay, I tend to
4 disagree. I think that the law and collective-- as
5 well as collective bargaining allow for more
6 aggressive actions to be taken, but clearly that is
7 consistent with the Department's decisions. It took
8 five years to bring Pantaleo to trial, right? Do you
9 aggregate discipline by race and gender?

10 FIRST DEPUTY COMMISSIONER TUCKER: Of
11 course not.

12 COUNCIL MEMBER MILLER: Could you--

13 FIRST DEPUTY COMMISSIONER TUCKER:
14 [interposing] Are you saying that we use race and
15 gender--

16 COUNCIL MEMBER MILLER: No, no, no, I'm
17 saying how do you-- do you keep that data by race and
18 gender, who's disciplined by gender--

19 SERGEANT AT ARMS: [interposing] Time's
20 expired.

21 COUNCIL MEMBER MILLER: You know, what
22 percentage.

23 CHAIRPERSON TORRES: Ignore the time
24 limit.

25 COUNCIL MEMBER MILLER: Do we--

3 FIRST DEPUTY COMMISSIONER TUCKER:

4 [interposing] Yes.

5 COUNCIL MEMBER MILLER: That information
6 is not available?

7 FIRST DEPUTY COMMISSIONER TUCKER: People
8 who get complaints, is that what you're talking
9 about?

10 COUNCIL MEMBER MILLER: Who get
11 disciplined? Like disciplined, officers and
12 executives and supervisors that are disciplined, do
13 we aggregate that by race or gender?

14 FIRST DEPUTY COMMISSIONER TUCKER: Yes,
15 we do. We track that. We have it.

16 COUNCIL MEMBER MILLER: Is a-- do you
17 also do it by rank? What is the likelihood-- so what
18 we're trying to determine, if this Deputy Inspector
19 is being treated any differently from an officer, not
20 by virtue of what you're saying, but what the data
21 tells us.

22 FIRST DEPUTY COMMISSIONER TUCKER: Well,
23 he's being treated just like anyone else. That's my
24 whole point about process, due process.

25 COUNCIL MEMBER WILLIAMS: But I'm sorry,
again, Commissioner, my point is does the data

1 support what you're saying in terms of discipline,
2 how many folks are being disciplined by race, by
3 gender, by rank, and is this behavior an abhorration
4 [sic] because of his rank, because his race, and--
5 because I find it very concerning that someone
6 responsible for the very activities that oversee
7 maintaining the dignity of the Department and its
8 workforce is carrying out such behavior. I also find
9 it very hard to believe that no one saw this coming.
10 And in fact, while we're on that, did you know him
11 personally? Did anybody on the panel know this--
12 have a relationship or known him? Obviously, someone
13 worked with him directly.

14
15 FIRST DEPUTY COMMISSIONER TUCKER: Well,
16 Commissioner Meisenholder can speak to it, but I will
17 say as I said earlier, there's nothing to suggest
18 that in DI Kobel's case that he was somehow this
19 person who we now believe-- there was nothing--

20 COUNCIL MEMBER MILLER: [interposing] I
21 find that absolutely hard to believe.

22 FIRST DEPUTY COMMISSIONER TUCKER: Well--

23 COUNCIL MEMBER MILLER: [interposing] I
24 just--

25

3 FIRST DEPUTY COMMISSIONER TUCKER:

4 [interposing] So do we.

5 COUNCIL MEMBER MILLER: Because people
6 live these alternative lives in that way, and what
7 kind of-- so he was removed. His subordinates,
8 anyone else in that department, were there any other
9 re-orgs that happened? Because clearly, there has to
10 be an audience to receive this type of nefarious
11 language and behavior. He wasn't active-- he wasn't
12 operating in a silo. He was operating within this
13 site that is visited by many members of the
14 Department. We have "see something, say something."
15 Like clearly-- it-- to say that somebody knew would
16 be ridiculous. Everybody knew that the dude was
17 operating in this site here. How do we not know and
18 how do we-- what steps have been taken to prevent it
19 from happening? Beyond moving him, have we began to
20 look at all those around him?

21 FIRST DEPUTY COMMISSIONER TUCKER: Well,
22 I think your assumptions are probably too broad. I
23 don't think that everybody knows. I don't think many
24 people knew, if any. You just-- if he is that
25 person, if he is actually-- once we complete this
investigation, if he's that person, no one suspected

1 it, and I think, you know, even with the
2 modifications, you know, that's-- certainly people
3 know he's been modified and removed from the
4 positions. Folks, I think, comments have been, "I
5 couldn't believe, can't believe it. How could that
6 be?" That's the sort of--

8 COUNCIL MEMBER MILLER: [interposing]

9 That's-- that's an indictment on an investigation if
10 [inaudible] say that. That is a serious indictment
11 that no one knew that potentially this guy harbored
12 these types of feelings.

13 FIRST DEPUTY COMMISSIONER TUCKER: You--

14 COUNCIL MEMBER MILLER: [interposing] I
15 don't think anybody [inaudible] we live in [sic]. I
16 would also submit that the Department should probably
17 take-- a significant portion of investigations that
18 occur in street crimes and in crimes happen-- happens
19 in chat rooms, right? A significant-- there is so
20 much activity that the Police Department is engaged
21 in investigations and pre-employment, why wouldn't
22 you then continue to monitor social media? And I get
23 that there's, you know, there's all kinds of
24 infringements and rights and stuff like that, but we
25 know that this is where these activities happen,

3 right? Why wouldn't the Department monitor social
4 media when you monitor everybody else's?

5 FIRST DEPUTY COMMISSIONER TUCKER: We do
6 monitor social media.

7 COUNCIL MEMBER WILLIAMS: You didn't
8 monitor this. You didn't monitor this.

9 DEPUTY COMMISSIONER CHERNYAVSKY: I
10 think, Council Member,--

11 COUNCIL MEMBER WILLIAMS: [interposing]
12 And here's what I know, I also know that we had a
13 local inspector who was a little aggressive to say
14 the least and was forced to shut his site down.
15 Right? So clearly there's-- the Department
16 recognizes that this type of behavior occurs. How did
17 he get away with it? How did he get away with it
18 when I know that there was a-- clearly, a
19 supervisors, the fact that the same rank, happened to
20 be a person of color-- didn't matter because he was
21 out of order as well and was forced to shut his site
22 down, just shut it down, and he was just going over
23 the top. He didn't offend people in this way. How
24 did you not know that the person that is charged with
25 this oversight is operating even beyond that behavior
is beyond me that-- and what-- and then I'm going to

3 close with this. What have you done to ensure that
4 this doesn't happen again?

5 DEPUTY COMMISSIONER CHERNYAVSKY: Well, I
6 think, Council Member, you know, I think we-- we
7 would all love to have some sort of a crystal ball
8 where we can [inaudible] these things before they
9 happen, you know. And we do try. I think based on
10 Commissioner Meisenholder's response to Chair Adams
11 on the processes we put in place, the Matrix with the
12 heightened penalties for this kind of activity, the
13 various programs and the listening groups, the focus
14 groups within the Department, the various trainings
15 that we do, it is all meant to avoid having this sort
16 of scenario happen. But I think you know, like any
17 corporation, like whether it's the Council itself or
18 whether any organization including the Police
19 Department that's of this size, it is-- it's not
20 unforeseen that you may find somebody that flies
21 under the radar, if in fact this is an employee that
22 flies under the radar and there were no signs. Now,
23 you talked about the individual having a forum. I
24 mean, clearly on that particular platform that was
25 certainly a forum. It was an individual masking
himself under a pseudonym that was spewing hate

3 speech that none of us denied, that all of us find
4 abhorrent, that effectively insulted each one of us
5 on this panel with respect to the various groups that
6 we belong to. I just think that, you know, sometimes
7 it is possible that somebody doesn't exhibit any
8 kinds of signs to their coworkers but is living life
9 and having views that we ultimately become aware of,
10 and we all use hindsight and we wish that we were
11 aware of it sooner and we took action sooner, but
12 short of having any kind of evidence or having any
13 kind of sign that could lead us to that conclusion. I
14 think the right judgement is what we should be judged
15 on or any organization should be judged on, what do
16 you do when you actually find out rather than a
17 judgement on why didn't you see something that it
18 appears to be there were no signs that we could have
19 seen and no flags that could have been raised. I
20 think the right call now is, you know, now that we do
21 know, what is the process that we go through? How do
22 we identify who this is? How do we confirm? How do
23 we do a process that is a solid process that could
24 withstand scrutiny on the backend so if we are to
25 take discipline in this particular case, that
discipline is not overturned under judicial scrutiny,

1
2 and I think that's really the approach that we're
3 trying to take. We were presented with a very
4 comprehensive set of information and documentation by
5 Chair Torres. I think the work that this committee
6 and his staff and he has done is commendable. This
7 information was brought to us. Now we can use that
8 information and follow some additional leads and get
9 some additional-- serve some additional subpoenas.
10 There is technology involved in the case. So if we
11 can build a much more solid case that can withstand
12 scrutiny, that's what our aim is to do, and I don't
13 think we're far off from completing it.

14 COUNCIL MEMBER MILLER: you know what, I
15 appreciate it, and obviously, Commissioner Oleg
16 you've been and because we have worked together for
17 so long we have the utmost respect here, but I am
18 thoroughly disappointed, just absolutely disappointed
19 of the naivety that happens there, that this is not
20 just culture conditioning, that this is not
21 acceptable. We see it day in and day out. We see it
22 as civilians. We see it internally. People know, and
23 you need to put your ear to the ground, that folks
24 know that there are groups operating within the
25 Department, operating within the city, and quite

1
2 frankly, you know, we can't always do it, but it has
3 to be absolutely unacceptable, and the behavior once
4 someone has been caught doing it or even perceived to
5 be caught doing it, that there are immediate
6 consequences and actions that have to be taken, and
7 that doesn't happen. It kind of just, you know,
8 promotes business as usual, and we continue to see
9 that, and I'm disappointed, and whether it's here or
10 FDNY, which is this 4.0. We will continue to
11 investigate. I want to commend the Chair for his due
12 diligence and the work that has been done on this
13 issue because it's absolutely unacceptable, and we
14 will, absolutely will continue to publish findings
15 and make sure that agencies are being held
16 accountable, because it appears now that, you know,
17 at best you want to do something, but I would expect
18 stronger actions to be taken, and we've seen it, and
19 we've waited. We've waited five years, you know, for
20 the firing of Pantaleo, and without this to happen,
21 this is what we're going to continue to see and that
22 is just unacceptable, and we-- and I know many of my
23 colleagues were very, very hopeful that there was
24 changes coming, but we're certainly not seeing that
25 change. Thank you--

3 FIRST DEPUTY COMMISSIONER TUCKER:

4 [interposing] Well--

5 COUNCIL MEMBER MILLER: for the time,
6 particularly Chair Adams. It's great to see you in
7 the seat, and certainly I'm going sit there and
8 continue to absorb and we will continue to make
9 ourselves available to work with the Department, but
10 I'm greatly disappointed of what I'm hearing this
11 afternoon.

12 COMMITTEE COUNSEL: Thank you, Council
13 Member Miller. Next we'll hear from Council Member
14 Cohen. If any other Council Members have questions
15 to ask, please use the Zoom raise hand function at
16 this time. Council Member Cohen, you may begin.

17 SERGEANT AT ARMS: Time starts now.

18 COUNCIL MEMBER COHEN: Thank you. Thank
19 you very much. Thank you, Chairs. Commissioner,
20 Deputy Commissioners, it's good to see you. Thank
21 you for your testimony. Before I ask a tough
22 question, I do want to take a moment, and obviously
23 in your testimony it was clear, but I am keenly aware
24 that there has been tremendous progress in bringing
25 the NYPD into the 21st Century. When I go to
precinct council meetings or when people come to my

3 office with issues with NYPD, you know, I point out
4 that when I took office there was not a-- there were
5 no officers with body cameras. Now, they're
6 universal among the patrol. I've gone to the
7 Academy. I've gone to graduations. I've seen how
8 incredibly diverse the incoming officers are. So, I
9 am keenly aware of it, and to be honest, that brings
10 me to the point of my problem is that I don't think
11 the issues are particularly with the officers. I
12 think there are systemic failures here as the Chair
13 brought up that these message boards and chatrooms.
14 Like, this is going on in the NYPD, and the NYPD is
15 not aggressively monitoring it, not going after it,
16 not pursuing it, not trying to root it out, and
17 that's really, I think, the problem. And when you
18 fail to take these actions, ultimately, it's the rank
19 and file officer who's left holding the bag. They're
20 the one who's criticized on the street for this
21 detective's conduct, and he's not a lone actor. My
22 first question is, how many other people are under
23 investigation for this kind of conduct?

24 DEPUTY COMMISSIONER CHERNYAVSKY: I
25 don't--

3 FIRST DEPUTY COMMISSIONER TUCKER:

4 [interposing] I don't know--

5 DEPUTY COMMISSIONER CHERNYAVSKY:

6 [interposing] Yeah, I don't think we have that
7 number. I mean, I should-- you know, I know this is
8 not really in response to your question, but I should
9 have interrupted you before you asked the question.
10 You know, I wanted to echo the First Deputy
11 Commissioner's comments on working with Chair Torres
12 and Chair Adams and you know, the fact that, you
13 know, with Chair Torres and our collaboration in this
14 capacity will be greatly missed, but I certainly
15 didn't want to forget you, Council Member Cohen, and
16 I know that you're going to be leaving us as well,
17 and I think that, you know, we truly cherish, you
18 know, the work that we certainly did together, and I
19 think the benches [sic] will be greatly served,
20 criminal justice in the system will be greatly served
21 by having you there. So, our loss is their gain.

22 COUNCIL MEMBER COHEN: I appreciate it.

23 You know what I'm asking. I'm asking from a place of
24 sincerity, so thank you.
25

3 DEPUTY COMMISSIONER CHERNYAVSKY: No, no,
4 I completely understand, but unfortunately, I don't
5 have that number, but I will get that number for you.

6 COUNCIL MEMBER COHEN: Can you give me a
7 hint, though? Is it five people, 10 people? I mean,
8 this seems-- you know, I've read the news accounts.
9 This seems to be a problem within the ranks. I don't
10 know how many people are-- I don't know how many
11 people are engaged in it. If there was somebody
12 plotting, you know, terrorism on chat boards, you
13 would know. This is serious because it undermines
14 the public's faith in the NYPD, and that is of
15 paramount concern to you and to me.

16 DEPUTY COMMISSIONER CHERNYAVSKY: I
17 agree. That part we could absolutely agree to. I
18 think it's important to echo what the First Dep said
19 in the beginning in response to, I think it was with
20 Chair Torres. There is extreme difficulty in
21 investigating such cases. So, first of all, I know
22 we're all focused on this particular message board,
23 but there are thousands, if not tens of thousands, if
24 not hundreds of thousands of such boards out there,
25 and this is-- to give context of the First Dep's
comments in response to Chair Torres. What these

1 individuals do is nobody clearly posts under their
2 own name. Nobody posts a picture of themselves.
3 This is not-- this is a lot different than, for
4 example, investigating the gang--

5 COUNCIL MEMBER COHEN: [interposing] I
6 know, but the terrorists-- the terrorists don't post
7 on their own name either, and you're able to
8 investigate--

9 DEPUTY COMMISSIONER CHERNYAVSKY:
10 [interposing] [inaudible]

11 COUNCIL MEMBER COHEN: and monitor what
12 they do.

13 DEPUTY COMMISSIONER CHERNYAVSKY: Again,
14 if what you have is-- you have somebody on
15 intelligence--

16 COUNCIL MEMBER COHEN: [interposing]
17 Chief, I can see-- I'm not equating the two, by the
18 way. I'm just saying--

19 DEPUTY COMMISSIONER CHERNYAVSKY:
20 [interposing] [inaudible]

21 FIRST DEPUTY COMMISSIONER TUCKER: Yeah, I
22 was going to say--

23 DEPUTY COMMISSIONER CHERNYAVSKY:
24 [interposing] [inaudible]

3 FIRST DEPUTY COMMISSIONER TUCKER:

4 They're very different.

5 COUNCIL MEMBER COHEN: Yeah.

6 DEPUTY COMMISSIONER CHERNYAVSKY: But I
7 think the important-- in the context of terrorism,
8 you have somebody advocating for mass destruction or
9 a mass shooting or any kind of terrorist act, what
10 happens is you're able to then focus your resources
11 on that one individual that's posting it, determine
12 who that individual is, where the post is coming
13 from, and do your trace that way. What you're
14 talking about here is monitoring tens of thousands of
15 message boards for hate speech which, unfortunately,
16 really unfortunately is not uncommon on these various
17 message boards, but then investigating each and every
18 piece of hate speech to determine who the speaker is-

19 -
20 SERGEANT AT ARMS: [interposing] Time
21 expired.

22 DEPUTY COMMISSIONER CHERNYAVSKY: and
23 whether or not they're an active member of the
24 service. That's the difficulty in the use of
25 resources, and I that I guess the answer to Chair
Torres' question. You know, that was the difficulty

3 in conducting these investigations and having large
4 mass surveillance of chatrooms to try to determine
5 which of those individuals are active members of the
6 service. Those are the difficulties in doing it.
7 Certainly when we do become aware of it, where we
8 dedicate the resources in fully vetting that lead and
9 determining whether that individuals is in fact an
10 active member of the service, and certainly we
11 calibrated our discipline system in order to punish
12 that individuals in a much more severe than they may
13 have historically been punished, and certainly we're
14 taking proactive steps to train our members of the
15 service in appreciating the diversity of our culture
16 and the city that they serve in, and that hopefully
17 is going to educate them and serve as a deterrent to
18 having such sort of thoughts.

19 COUNCIL MEMBER COHEN: I appreciate that,
20 Chair, and just if you could ultimately let me know
21 how many others members of the NYPD are under
22 investigation for posting, making posts that are
23 inconsistent with being a police officer. It doesn't
24 have to be exactly the same nature of this. I would
25 be interested in knowing that, and I'd also be
interested in knowing it when you talk about

3 resources, if you could at some point tell us what
4 the resources are devoted to trying to root out this
5 kind of behavior.

6 FIRST DEPUTY COMMISSIONER TUCKER:

7 Councilman, I can give you some data just on
8 offensive language that's found-- that complaints
9 that go to CCRB, for example. So, in-- you know, in--
10 - complaints generally are down by 25 percent, again,
11 for members of the service, uniformed members of the
12 service or other members of the service, but
13 offensive language complaints, we have 276 in 2019,
14 and that was down-- 276 this year, down 10 percent
15 from what it was at this time in 2019. Historically,
16 only about 4.5 percent of the complaints and only
17 about two to three percent of the allegations are
18 what consists of these 200-- or what gets
19 investigated, and that's what the complaints look
20 like, either complaints on the instance that the
21 complaint is made, and then it has two or three
22 allegations per complaint. Overall, the trend is
23 downward. So over the last 10 years, allegations of
24 offensive language have come down. The most common
25 allegations are race and gender. Thirty percent of
allegations, roughly, are about race, comments about

3 race and 30 percent around gender. The-- in terms of
4 the substantiation of those complaints, 15 percent
5 are substantiated, 34 percent are exonerated, which
6 means that whatever the conduct is that was alleged
7 to have been within this category was found to be
8 appropriate or proper, and 11 percent are unfounded,
9 which means that they just didn't happen as far as
10 the CCRB was concerned. But that's just one slice of
11 the way in which we would look at these, obviously,
12 but just to give you some context.

13 COUNCIL MEMBER COHEN: As long as you
14 have it open, and I'm sorry if I'm abusing my time,
15 what were the range of punishments in the 15 percent
16 that were substantiated?

17 FIRST DEPUTY COMMISSIONER TUCKER: I
18 don't have the punishments. I just have the broad
19 data that I just discussed. I can get that for you.

20 COUNCIL MEMBER COHEN: I'd appreciate it.

21 FIRST DEPUTY COMMISSIONER TUCKER: But
22 the-- that's just the snapshot.

23 COUNCIL MEMBER COHEN: Thank you very
24 much. I will-- I do appreciate it, and I feel like I
25 have had a good partnership with the NYPD over my

1
2 time in office, and I'm very grateful for that
3 partnership, so thank you very much.

4 DEPUTY COMMISSIONER CHERNYAVSKY: Thank
5 you.

6 FIRST DEPUTY COMMISSIONER TUCKER: Thank
7 you.

8 COMMITTEE COUNSEL: Thank you. Are there
9 any other Council Members with questions? If so,
10 please use the Zoom raise hand function now? If not,
11 I will now turn it back to the Chairs for any further
12 questions. Chairs Torres and Adams?

13 CHAIRPERSON TORRES: Thank you. I know,
14 Commissioner, when I had asked you about Qanon and
15 you said you were unaware of it and you were unaware
16 of any investigation into Qanon, and Sergeant
17 Mullins. It was brought to my attention that in
18 August of 2019 Yahoo News wrote the following article
19 with the following headline, "FBI Document Warns
20 Conspiracy Theories are New Domestic Terrorism
21 Threat," and the document which is the subject of the
22 article specifically identifies Qanon as one of those
23 conspiracy movements. I also want to just correct
24 the record. I know you indicated that the law
25 enforcement rant board has been shut down. I was

3 informed by the Council's investigators that it
4 hasn't been shut down. It's been reconstituted as a
5 new board. So it has the same name, but it has a
6 different hosting company. I'm going to have my team
7 send you the link to the new website.

8 FIRST DEPUTY COMMISSIONER TUCKER: Thank
9 you.

10 CHAIRPERSON TORRES: If-- suppose you
11 unmask the identity of an officer who has engaged in
12 hate speech online and you hold the officer
13 accountable, is the NYPD willing to commit to
14 reviewing the past work of that officer, their past
15 arrests, their past testimony, all their-- really,
16 all their functions as a police officer?

17 FIRST DEPUTY COMMISSIONER TUCKER: Well,
18 it depends on the nature of the complaint, obviously,
19 because not everything that that officer has done
20 necessarily would reflect some outlet, something that
21 you would suggest was connected directly to the
22 sentiment that this officer espoused. So, don't
23 know. I couldn't say at this moment that yes we
24 would look, but if there was some reason to, but I
25 would much prefer to deal with it from a more
preventative measure and to those kinds of things

3 that we are engaged in, in terms of trying to hold
4 officers accountable when we learn of their conduct,
5 number one. Number two, try and prevent it from
6 happening in the first place or minimize it, reduce
7 it. I just don't know whether you could ever
8 eliminate it, because of the nature of this conduct
9 and so forth. So, but there might be cases where--
10 and certainly-- and I will say in Kobel's case we
11 did. One of the first things we did was-- I handled
12 this. So, I always look back at the officer's
13 record, because I want to know because that helps you
14 understand. number one, it goes to how you might
15 handle the instant case that you're looking at from a
16 punishment, from a penalty perspective, and if you
17 look at our Matrix, you know, it sets these
18 parameters [inaudible] penalties, but we can rely on
19 litigating it and aggregating factors as well to
20 determine, and some of these aggregated factors may
21 be the officer's past experience, so might mitigated
22 factors. Often, also is part of a decision-making,
23 particularly in a case where, you know, we're talking
24 the conduct is very serious and is there anything
25 that suggests that this officer, that the number of
days, for example, that were taken. Instead of being

3 12 days, might be four days or five days. Things
4 like that may come into play, but that's very rare in
5 the most serious of cases, which this is, and so
6 we're not interested in-- you know, the conduct
7 speaks for itself and it's so heinous that given the
8 fact as I mentioned to you earlier, this is-- if it
9 turns out to be this individual, we will pursue it
10 and pursue it to the fullest extent up to and
11 including termination.

12 CHAIRPERSON TORRES: I just want a little
13 more clarity. If you have a patrol officer who has
14 arrested people and has testified against people, and
15 it is found that that patrol officer is the kind of
16 bigot that "Clouseau" has been exposed to be, would
17 the NYPD commit to reviewing the record of that
18 officer?

19 FIRST DEPUTY COMMISSIONER TUCKER: It's
20 not unreasonable that we might, and it may be-- you
21 know, we might even have a conversation, you know,
22 with the DA's involved in those cases. Who knows? I
23 mean, it may be that we do, but I--

24 CHAIRPERSON TORRES: [interposing]
25 Commissioner, I don't mean to pressure you, but-- you

1
2 said it's not unreasonable, but I don't know-- is
3 that a yes?

4 FIRST DEPUTY COMMISSIONER TUCKER:

5 [inaudible] It'd be on a case by case basis I think
6 is the proper way to-- you know, we wouldn't-- it's
7 not as if I'm saying to you no, we're not ever going
8 to do that. We might. I can envision a certain
9 chance [sic] where we would.

10 CHAIRPERSON TORRES: And I know you

11 acknowledged earlier that the NYPD had no history of
12 monitoring these online message boards where history
13 of investigating the hate speech of officers on these
14 message boards. Is the NYPD willing to make a
15 practice of monitoring these message boards and
16 willing to make a practice of investigating, if
17 necessary, the hate speech on these message boards to
18 see if an officer--

19 FIRST DEPUTY COMMISSIONER TUCKER:

20 [interposing] You know, I think what I-- you know, I
21 also oversee Risk Management, and I think I'm going
22 to have-- what I will commit to is having the
23 conversation with Deputy Commissioner [inaudible] who
24 oversees Risk Management, because it is, I think,
25 worth a conversation along those lines. We've done

1 an enormous amount with respect to early intervention
2 through Risk Management. It has been much more
3 robust operation looking at ways to prevent certain
4 activities, but also to identify gaps in conduct of
5 officers and to be able to identify those acts in any
6 kind of misconduct, certainly generating civilian
7 complaints or engaged in other kinds of conduct that
8 might be more serious and rise above, you know,
9 statements and may have to use force or something
10 like that. We always look at those things, and so
11 I'm going-- I'll be having the conversation just to
12 think about what else we might do and what-- you
13 know, the point here as I think as a practical
14 matter, it is a resource issue, and because of the
15 nature of these folks having-- not using their real
16 identities and-- that makes it I think a bit of a
17 challenge. So, I don't know. I wasn't-- you know, I
18 mentioned resources because I think it's real. It's
19 particularly in this- in the nature-- in the current
20 climate. So I think you have to be realistic about
21 just what we do and when we do it and under what
22 circumstances and based on information that we have.
23 I don't think that's unreasonable. I think it makes
24 sense. But listen, we-- I think the one thing we
25

1 certainly all agree on here is that what we said in
2 both of our testimony. This conduct is-- this is
3 outrageous, and it is the kind of thing that-- you
4 know, police work is about gaining the legitimacy of--
5 - you know, acting in a way that you gain the respect
6 and actually gain the legitimacy and seen as
7 legitimate in the eyes of the public or the people we
8 serve. And this is the kind of thing that, you know,
9 for the 36,000 officers out there who put their lives
10 on the line every day doing what they do, this is--
11 they are trying to get it done and trying to do
12 what's right. I think most cops who get out of bed
13 in the morning, and you know, put on their shoes, go
14 to work, and put the uniform on, I think they do it
15 because they want to keep the City safe. And I don't
16 think-- and there's no place for people. If it is
17 this inspector, then there is no place for him in
18 this job. And we find officers that there's no place
19 for them this job for a whole host of other reasons
20 as well, and what we do, we get rid of them, and
21 that's no less true, certainly in cases like this.
22 So, listen, I appreciate we had this hearing. It
23 gave us the opportunity to have this conversation,
24 particularly since, you know, that you know that the
25

1 history of the Department over this last seven years,
2 and Council Member Cohen referenced it a bit, has
3 been, you know, really focused on continuous
4 improvement but doing things that-- with body-worn
5 cameras, with overhauling the discipline system to
6 make it more effective which is what the Matrix
7 division that the Council had for that has now been
8 realized and in January the Matrix will be posted,
9 and I think we'll get better results. We've gotten
10 some of those results unilaterally in changes that we
11 made with respect of officers engaged in domestic
12 violence or driving while intoxicated, and those
13 penalties have been severe, and many of them
14 ultimately could lead to determination, some do and
15 have. So, I think we are not blind or deaf to the
16 notions of fairness and equity, but also recognizing
17 that we have to vigilant about the kinds-- these
18 kinds of concerns, and where we can take the steps
19 and the measures honestly that we need to do tape
20 [sic] to tape [sic]. but you know, with respect to--
21 all due respect to Council Member Miller's comments,
22 I just think we have to also-- it is-- we'd be doing
23 ourselves a disservice, all of us, I mean our
24 officers and the City ultimately if we go after
25

3 people and do it in a way that doesn't respect due
4 process, and we end up, you know, pursuing
5 termination cases that ultimately backfire, and that
6 is the cases where they go and make, you know, pursue
7 Article 78 which in some cases could have a decision
8 to send that person back to the Department, which is
9 what we don't want, which is why I think we are
10 hypervigilant about making sure the case when we
11 make, we make the call and it's as tight as it can
12 be, and there's no avenue of wiggle room from as far
13 as we can see. So when this person is terminated,
14 they stay terminated.

15 CHAIRPERSON TORRES: My concern is, you
16 know, you've been emphatic that there's no room for
17 hate in the Police Department, but I'm not hearing a
18 clear commitment to monitoring and cracking down on
19 the hate speech of your own officers on these online
20 message boards. I know there's a commitment you said
21 to a conversation, but I believe there should be
22 actual monitoring. You did mention resource
23 constraints. If there are legal resource
24 constraints, is the Department, is the NYPD willing
25 to call upon an independent entity like the Justice

1 Department to investigate these online message boards
2 where officers are trafficking hate speech?

3
4 FIRST DEPUTY COMMISSIONER TUCKER: Well,
5 I don't think-- I don't know that justice, we would
6 call them in to do that. I mean, it's our
7 responsibility for the enforcement and to do our own
8 investigations--

9 CHAIRPERSON TORRES: [interposing] You're
10 telling me-- if you're telling me you don't have the
11 resources, like, who's going to be in charge of
12 investigating and uncovering the identities of
13 officers who engaged in hate speech and explicit
14 bias? Like are we simply going to turn a blind eye
15 to it? You're telling me--

16 FIRST DEPUTY COMMISSIONER TUCKER:
17 [interposing] Well,--

18 CHAIRPERSON TORRES: [interposing]
19 [inaudible]

20 FIRST DEPUTY COMMISSIONER TUCKER: Well,
21 first of all, that's not the only resource. That's
22 not the only-- then where we-- it's not as if we're
23 not doing anything in that regard anyway, and so we
24 do prosecute, we do hold accountable those officers
25 who engage in that conduct who we find out about in

3 various ways, and either through social media, or in
4 just the way in which they do their job based on the
5 number of complaints that they receive that they have
6 that kind of impact, whether it's race, gender or
7 otherwise. Those are the kinds of things that are a
8 part of the work that we get done and we have an
9 impact with, and who's not to say that some of those
10 individuals who we ended up pursuing they also have
11 been people who have been on these sites, but we
12 would not necessarily know that. So, all I'm saying
13 is we will take a look and see, but there are some
14 serious concerns right now that I would, you know,
15 just hold up rather than say to you-- be easy to say
16 to you, yeah, I'm going-- we're going to do this--
17 get it done. I'm not sure that that will happen. We
18 could consider some sort of a pilot to try and to see
19 whether it works and whether we even have any success
20 at identifying individuals. That's a possibility,
21 but you know, at this point, I'm not sure that I
22 could be definitive and sit here and tell you that
23 that's what we're going to do. But I certainly would
24 consider the things that I just said to you as
25 possibilities, nevertheless.

3 CHAIRPERSON TORRES: You know, Albert
4 Einstein once said if you do the same thing over and
5 over again and expect different results, that's the
6 definition of insanity.

7 FIRST DEPUTY COMMISSIONER TUCKER: Well,
8 that's--

9 CHAIRPERSON TORRES: [interposing] If we--
10 let me finish.

11 FIRST DEPUTY COMMISSIONER TUCKER:
12 [inaudible]

13 CHAIRPERSON TORRES: Commissioner, if we
14 fail to monitor these sites, then history can repeat
15 itself. We might have future EEO officers who are
16 closeted bigots. I want to ask you a broader
17 question. Do you think racism is a problem within
18 the NYPD?

19 FIRST DEPUTY COMMISSIONER TUCKER: Yeah,
20 racism-- the NYPD is a microcosm of the rest of the
21 city and society, and so to somehow assume that we
22 don't have people in this agency who have race
23 problems would be ridiculous. So, yeah, I mean--
24 listen, I gave you a little bit of my history when I
25 came in the job early on in the 60s. When I came
into the Department, 95 percent of the Police

3 Department were white males. That's what it was back
4 in 1969, and you had a handful of African-Americans
5 and Hispanic officers, and a number of those folks
6 went up through the ranks, particularly African-
7 American officers at that time, because they were a
8 lot more, a lot bigger population I think. But yeah,
9 I saw racism. I was a victim of what I believe was
10 racism. Actually, it was, you know, it wasn't clear
11 that this officer who assaulted me was a racist, but
12 I know-- in fact, I didn't pursue it and make a
13 complaint. I didn't-- my concern was that that
14 circumstance, that personal circumstance that I was
15 in back in 1973 when this happened when I was hit and
16 injured out at a site where we were dealing with
17 racial tensions out at Madison [sic] High School. I
18 was less concerned about this officer's motivation
19 than being a racist. I was more concerned about the
20 fact that I thought he was unstable and shouldn't be
21 on the job at all for that reason, and the Borough
22 Commander heard that message, and he spoke to me, and
23 he took this officer off patrol and so forth. I
24 wasn't interested. The press were there. They wanted
25 to talk to me about racism, racism and all of that.
I didn't think that was-- that wasn't my concern,

1 because I-- after I was struck by him and I was
2 standing six inches from looking [inaudible] in his
3 eyes, I could see that this guy was a problem, and I
4 told that to the Borough Commander. I said, listen--
5 he said what do you want to do? I said, "Hey, the
6 guy shouldn't be on the street, because one of these--
7 - he's going to kill somebody." That's what I said
8 to him. So, you know, it's not as if I don't get the
9 concerns that we all share, but I could also tell you
10 that, you know, that officer ultimately ended up
11 going off the job, because I ran CCRB when it was
12 inside the Police Department for a few years in the
13 early 80s, and I saw all of these issues. And you
14 know, we had a backlog, of course. It was inside the
15 Department and that was because the only way you
16 could get oversight to the ABC was through some of
17 the deals that they made with the unions back in the
18 early 60s and so forth. It was there. It existed,
19 and we tried to improve that process and have people
20 in the public be able to rely on the fact that if
21 they made a complaint and filed it with us that we
22 would follow through, and I think we made some
23 improvements there to make the place-- give it some
24 legitimacy back then. But the Department, fast-

1 forward to where we are today. The agency is 52
2 percent, you know, people of color and so it is a
3 very different organization--
4

5 CHAIRPERSON TORRES: [interposing] I want
6 to explore that, because you made a powerful
7 statement in your testimony. You said something to
8 the effect that it's possible to ensure fear and
9 impartial policing without diversity, and you're
10 correct in pointing out that there's diversity in the
11 rank and file of the Police Department, but there's a
12 glaring lack of diversity in the leadership of the
13 Police Department. I mean, take the position of
14 Commissioner. I mean, when was the last time a
15 person of color served as Commissioner, was appointed
16 as Commissioner of the NYPD?

17 FIRST DEPUTY COMMISSIONER TUCKER: Are
18 you really asking me that question, Council Member?
19 Thanks. Well, listen, let me just say this. I
20 think, you know,--

21 CHAIRPERSON TORRES: [interposing] No, but
22 I think it's an important point. I mean, I just--
23 1990.

24 FIRST DEPUTY COMMISSIONER TUCKER: Well--
25

2 CHAIRPERSON TORRES: [interposing] We've
3 gotten a lot-- let me finish. Let me finish.

4 FIRST DEPUTY COMMISSIONER TUCKER:
5 [interposing] Explain, go ahead.

6 CHAIRPERSON TORRES: Let me finish. Let
7 me finish, Commissioner.

8 FIRST DEPUTY COMMISSIONER TUCKER: No,
9 that--

10 CHAIRPERSON TORRES: [interposing] We've
11 gone 30 years-- Commissioner, we've gone 30 years
12 without a person of color leading the New York City
13 Police Department. So, there has been progress, but
14 then there hasn't been.

15 FIRST DEPUTY COMMISSIONER TUCKER: Well,
16 listen--

17 CHAIRPERSON TORRES: [interposing] And
18 according-- and I just want to-- still, you know,
19 according to the City in an article written on June
20 24th by Greg Smith, 75 percent of police officials
21 with a rank above Captain are white. So, the
22 leadership of the NYPD remains overwhelmingly white.
23 It's-- you know, one-third of the City is white, but
24 two-thirds, or more than two-thirds of your
25

1 leadership is white. Your leadership is the inverse
2 of the City of New York.

3
4 FIRST DEPUTY COMMISSIONER TUCKER: Yeah,
5 I think it's now 60 percent, not 75 percent. I don't
6 know when that statistic was provided. But in any
7 case, I think, yeah, I think that's true. That's a
8 whole other discussion, and Daneek Miller, we've had
9 this discussion many, many times at hearings, in
10 prior hearings, and that the challenge there is
11 there's an ebb and a flow to this whole process. I
12 think we're seeing diversity and people coming in,
13 but the bottom line is when you become a police
14 officer, if you don't take promotion exams, you won't
15 get to the rank of Captain, and that's why I think at
16 any given time, but I said an ebb and flow. There
17 are times in which you have a number of-- a lot more
18 African-American, for example, members of the service
19 who get to the rank of Captain and above, and what
20 they do is they age out as well and they move on to
21 other positions. So, yeah. But the key is to get a--
22 and it's funny, you're having this conversation with
23 a Commissioner who is concerned about we decreased,
24 in particularly black males. When I came to the job,
25 nine percent of the Department were African-American,

1
2 nine percent. We are not that far from that number
3 when it comes to African-American males. We usually
4 track now somewhere-- correct me if I'm wrong, Tanya,
5 we're around 15 percent on average, but that's
6 because of black females coming into the job. When I
7 came into the job, you know, women had to sue to take
8 Sergeants Exam just two years before I came on, and
9 so things have changed there. You know, we have a
10 number of women who are three-start chief now, and
11 so-- and who happen to be not only women, but also,
12 you know, black, Latina and so forth. And so things
13 have-- that's a part of the role that we have is to
14 try and encourage young people of color to come in,
15 to be willing to come into this agency, become police
16 officers and then-- and I speak to young cops all the
17 time, all of the young cops, people of color as well,
18 but all the young cops. You come in and you should
19 study, go up through the ranks, because you know,
20 that's how you get to the leadership positions and
21 that's how you can have an impact on the way agency
22 serves the public. I'm still here for that reason.
23 I came back. I was gone for 20-something years
24 before I came back. So, yeah, do we have-- we don't
25 have enough at the top. I will say when it comes to

3 Hispanic officers, their percentages-- and in fact
4 they've outpaced African-Americans, you know, quite a
5 bit, and they're really about a 35 percent of the
6 agency, and they're representative I think in the
7 senior ranks is also that way. I'd say that about
8 Asian officers to some degree as well. So, there is
9 some change. Not enough, but there's been
10 extraordinary progress and the profound changes that
11 have occurred in the last seven years, in my view,
12 have been just that, unprecedented. And so we're
13 getting-- we're moving in the right direction. It's
14 still la work in progress.

15 CHAIRPERSON TORRES: And I know you said
16 it was-- that's a separate conversation altogether,
17 but I think-- my view is that a lack of diversity in
18 the leadership contributes to what is widely seen as
19 the NYPD's blind spot on race. I know we've spoken
20 about the leadership. I'm curious to know what's the
21 level of diversity within-- I know there's the Office
22 of Equity and Inclusion which includes the EEO
23 office. How many staffers are in each of those
24 offices?

25 DEPUTY COMMISSIONER MEISENHOLDER: So, in
the EOD investigation period there were 10

1
2 investigators, nine of whom are sergeants. Two are
3 black, five are Asian, two are white, and one is
4 Hispanic.

5 CHAIRPERSON TORRES: And that's the EEO?

6 DEPUTY COMMISSIONER MEISENHOLDER: That's
7 the EEO Investigations Unit. When you look at--

8 CHAIRPERSON TORRES: [interposing] And--

9 DEPUTY COMMISSIONER MEISENHOLDER: Go
10 ahead.

11 CHAIRPERSON TORRES: And what's the--
12 what are the number of staffers in the office that
13 you lead?

14 DEPUTY COMMISSIONER MEISENHOLDER: In
15 overall in OEI it is 38 percent black, 28 percent
16 white, 19 percent Hispanic, and 15 percent Asian.

17 CHAIRPERSON TORRES: So, there's
18 diversity in those offices. There's diversity in the
19 rank and file. We need to see progress in the
20 leadership. And look, I'll end on this note, and I
21 think Council Member Yeger has questions. I have no
22 issue with any of you as individuals. I have no
23 doubt about the professional integrity of
24 Commissioner Tucker and Oleg. I've worked with you
25 for these last seven years, and I can see you're the

3 consonant professional and straight-shooter. So, I
4 think all of you are good people. My issue is with
5 the culture, the system. I respectfully feel that
6 the likes of James Kobel for far too long are rarely,
7 if ever, held accountable, and I think if we hold
8 officers accountable for misconduct we're going to
9 restore our public trust in the Police Department,
10 particularly in communities of color. So, I'll leave
11 it at that, and I want to give Council Member Yeger
12 an opportunity to ask questions.

13 DEPUTY COMMISSIONER MEISENHOLDER: I'd
14 like to add one more point about diversity in our
15 workforce that's often overlooked, as I mentioned.
16 We have a tremendous number of civilians in our
17 workforce that we don't talk about often enough. I
18 mean, our civilian workforce is 70 percent female, 50
19 percent black, 23 percent Hispanic, and 13 percent
20 Asian, 15 percent white. This is something that
21 needs to be talked about when we talk about diversity
22 of our workforce. These are people who are working
23 hard every day with really difficult jobs. They're
24 answering 911 calls. They're in School Safety. They
25 are Traffic Agents. They represent many cultures,
and I just I want people to hear that because it's

3 critically important that we start thinking about our
4 workforce in terms of the entire employee workforce,
5 not just the uniformed population.

6 CHAIRPERSON TORRES: Council Member Yeger
7 have questions?

8 COMMITTEE COUNSEL: I don't believe any
9 Council Members have questions, but Council Member--

10 CHAIRPERSON TORRES: [interposing] I
11 thought you sent me a note about Council Member
12 Yeger.

13 COMMITTEE COUNSEL: [interposing]
14 [inaudible] yeah. [inaudible] questions, or Chair
15 Adams please proceed.

16 CHAIRPERSON ADAMS: I didn't really have
17 any other questions. I think that Chair Torres was
18 very thorough. I particularly like, you know, his
19 last statement there regarding leadership. I think
20 it's very, very important that we take a look at that
21 and that we, you know, pursue that. I just wanted to
22 make a note. We spoke a little while back about, I
23 think it was Oleg had mentioned, you know, if we
24 could predict this stuff happening on the force, you
25 know, we don't have a crystal ball, but I do believe
that the CCRB is your crystal ball of sorts

3 referenced by First Deputy Commissioner in those
4 stats provided on race and gender. So I just want to
5 continue to lean on the statistics and the work of
6 the CCRB to get to that data, to identify officers
7 who may be acting out of bigotry and explicit bias.
8 I think that that is a really good place to start and
9 a good place to really, really work through. So, I
10 just wanted to make that statement. Thank you.

11 COMMITTEE COUNSEL: Thank you, Chairs.
12 Unless you have other follow up questions, we will
13 now turn to public testimony. I'd like to remind
14 everyone that unlike our typical council hearings,
15 we'll be calling on individuals one-by-one to
16 testify. Each panelist will be given three minutes
17 to speak. Please begin your testimony once the
18 Sergeant has started the time. Council Members who
19 have questions for our particular panelists, use the
20 Zoom raise hand function, and I will call on you in
21 the order that you raised your hand after the
22 panelists have completed their testimony. Council
23 Members, you will have a total of five minutes to ask
24 your question and receive an answer from the
25 panelists. For panelists, once your name is called,
a member of our staff will unmute you, and the

3 Sergeant at Arms will set the time then give you the
4 go-ahead to begin. Please wait for the Sergeant to
5 announce that you may begin before delivering your
6 testimony. And again, if you have any written
7 testimony, please submit it to
8 testimony@council.nyc.gov. I would now like to
9 welcome Deborah Lolai to testify. After Deborah I
10 will be calling on Maryanne Kaishan, and then
11 Jennvine Wong. Deborah, you may begin.

12 DEBORAH LOLAI: Thank you. Good
13 afternoon. My--

14 SERGEANT AT ARMS: [interposing] Time
15 starts now.

16 DEBORAH LOLAI: Good afternoon. My name
17 is Deborah Lolai, and I'm the Supervising Attorney of
18 the LGBTQ Defense Project at the Bronx Defenders.
19 Thank you for the opportunity to testify before you
20 today. I'm here to discuss NYPD misconduct against
21 transgender, gender non-conforming, and non-binary
22 people. A major part of my work is representing
23 LGBTQ people in criminal cases. Our office has
24 represented thousands of TGNCNB people in criminal
25 cases. With every TGNCNB person who is arrested by
the NYPD, there comes a horror story about their

1 arrest and their experience being in NYPD custody.

2 As I'm sure you all know, the NYPD has a record of
3 abusing TGNCNB New Yorkers throughout history. As a

4 result of this pattern of abuse, the NYPD Patrol

5 Guide was revised in 2012 to include protections for

6 TGNCNB arrestees. In the hundreds of TGNCNB clients,

7 I have represented personally in criminal cases,

8 there has never been one client whose arrest and

9 treatment by the involved officers fully complied

10 with the 2012 revisions. Our clients are routinely

11 profiled by police. Throughout the course of their

12 arrest they are physically assaulted, sexually

13 assaulted, called derogatory names targeting their

14 sexual orientation or gender identity, placed in the

15 wrong holding cells, and mis-gendered orally and in

16 policy paperwork. For example, our client Kimberly

17 begged officers not to be placed in a holding cell

18 with men, and she was only removed after she tried to

19 hang herself. Our other client, Diamond, was so

20 severely injured by officers who were calling her

21 derogatory names, targeting her gender identity and

22 sexual orientation while they were assaulting her

23 that she had to be sent to the hospital to get

24 stitches before seeing a judge. Our client, Ms.
25

3 Dominguez, who recently settled her lawsuit against
4 the NYPD was arrested and charged with false
5 personation for providing both her previous and
6 current legal names to officers. During the arrest
7 officers repeatedly mocked her gender. Just this
8 past July, BuzzFeed reported a story of a transgender
9 man, Jamel Young [sp?], who was sexually assaulted by
10 officers who grabbed his crotch and chest in order to
11 determine his sex. This is a practice explicitly
12 banned within the NYPD, yet it still happens. It has
13 been demonstrated that unless further action is taken
14 to ensure that transgender, gender non-conforming,
15 and non-binary people are treated with dignity and
16 respect by the NYPD, the Department will continue to
17 perpetuate violence against TGNCNB arrestees. We
18 appreciate the committee's attention to this issue.
19 We ask that police misconduct towards our clients in
20 their custody be investigated and efforts be made to
21 remedy these serious problems.

21 SERGEANT AT ARMS: Time expired.

22 DEBORAH LOLAI: Thank you.

23 COMMITTEE COUNSEL: Thank you. Unless
24 there are any questions from the members, we'll move
25 on to the next panelists. Are there any questions?

3 CHAIRPERSON TORRES: Just one. How many
4 panels do we have?

5 COMMITTEE COUNSEL: We have currently
6 four panelists.

7 CHAIRPERSON TORRES: Four panelists.
8 Yeah, I have a question. Are you-- the NYPD
9 testified that there's been progress. In your-- I'm
10 curious, how long have you been at the Bronx
11 Defenders, and have you seen progress in the NYPD's
12 responsiveness, or is it business as usual?

13 DEBORAH LOLAI: I have been at the Bronx
14 Defenders doing this work since 2014, only two years
15 2012 revisions went into effect. I cannot tell you
16 whether there's been progress at the NYPD. What I
17 can tell you is what I see on the ground and what my
18 client's experiences are and what they're reporting
19 to me, and there has been no change in what they are
20 reporting to me. They are still reporting to me.
21 Every single time I see a transgender client at
22 arraignments they're reporting stories of abuse,
23 harassment, terrible treatment, all targeting their
24 gender identity and in complete violation of the
25 Patrol Guide. In fact, you're probably aware of the
2017 report published by the Department of

3 Investigation which confirms this, and I'll tell you
4 there has been no change that I have been able to see
5 since 2017.

6 CHAIRPERSON TORRES: Thank you for your
7 testimony.

8 COMMITTEE COUNSEL: Thank you, Deborah.
9 Unless there are any questions from other members,
10 we'll move on to the next panelist who will be
11 Maryanne Kaishan, followed by Jennvine Wong, and the
12 Jin Kwak. Maryanne, you may begin.

13 SERGEANT AT ARMS: Time starts now.

14 MARYANNE KAISHAN: Thank you. As Senior
15 Policy Council at Brooklyn Defender Services I want
16 to thank the committees for holding this important
17 discussion as online comments are reflected by real
18 life. While at BDS I've primarily served young
19 people who are mostly black and Latinx. Many care
20 police-related trauma, have experienced overt bias by
21 the police, including the use of racist, homophobic
22 and gendered slurs, and face biased police practices
23 such as constant police presence and surveillance,
24 pre-textual car stops and routine stop and frisks.
25 As defenders we see the direct result of two salient
data-backed trends that are consistent with bias in

1 enforcement. Black and brown New Yorkers are
2 disproportionately targeted for stops and arrests on
3 a systemic level, and individuals who engage in
4 displays of bias remain on the NYPD and are promoted.
5 We can't allow the police to frame this discussion as
6 about the perception of bias within the NYPD. Biased
7 policing is a real issue with concrete ramifications
8 for targeted people. This is a policing issue, not a
9 PR issue. We offer a number of recommendations in
10 our written testimony, and I'd also direct the
11 Council's attention to the recent report by CCI that
12 was from the perspective of young people. But in my
13 limited time I'd like to emphasize the following.
14 First and foremost the Council must divest from the
15 NYPD and invest in community. Where society
16 allocates its budget is a statement of its values.
17 It is time that this city place primary value on the
18 experiences and needs of its community members. This
19 is not a reckless or naïve denial of the existence or
20 impacted violence on communities. It's a call for
21 real solutions that do not involve prioritizing the
22 funding of oppressive police forces that have
23 repeatedly demonstrated disinterest and even
24 aggressive antipathy towards the wellbeing of those
25

3 same communities while failing to protect them. To
4 illustrate this point I often think of the kind of
5 young person who described near daily harassment by
6 police in his majority black housing development. He
7 showed me the artwork he made incorporating the names
8 of over a dozen of his friends who had been killed.
9 I asked him if any of their murders had been solved.
10 He told me that only one had because that person has
11 been killed by the police. We must consider the
12 message it sends our young people when we cut summer
13 youth employment programs, but pay officers like
14 Clouseau Kobel, or when teachers are short-changed,
15 while the NYPD again blows past its overtime
16 allowance by a 100 million dollars. Some of the so-
17 called solutions [inaudible] policing offered
18 translate to additional funds to the NYPD. We must
19 consider the message we sent about the value of human
20 dignity when we defund everything but the police. We
21 must also hold accountable offices who receive
22 complaints of bias. These serious issues persist
23 because of top-down institutional forces and a system
24 of promotions and unaccountability for officers who
25 repeatedly engage in harmful behavior. For all the
measures you heard about today, we know that the NYPD

1
2 has only ever substantiated one case of bias policing
3 and it was--

4 SERGEANT AT ARMS: [interposing] Time
5 expired.

6 MARYANNE KAISHAN: against a school safety
7 officer. The City Council must use its authority to
8 prioritize the safety and needs of New Yorkers over
9 the self-serving preferences of the NYPD which is
10 currently tasked with and making a mockery of
11 policing itself. I thank you for your time and I
12 welcome any questions.

13 COMMITTEE COUNSEL: Thank you. Are there
14 any questions from members?

15 CHAIRPERSON TORRES: Thank you for your
16 testimony.

17 MARYANNE KAISHAN: Thank you.

18 COMMITTEE COUNSEL: Thank you. Sorry, I
19 was muted. I will now call upon Jennvine Wong
20 followed by Jin Kwak. Jennvine, you may begin.

21 JENNVINE WONG: Thank you. My name is
22 Jennvine Wong--

23 SERGEANT AT ARMS: [interposing] Time
24 starts now.

3 JENNVINE WONG: and I'm a public defender
4 with the Cop Accountability Project at the Legal Aid
5 Society. The legal Aid Society is the largest public
6 defense organization in the country, and by contract
7 with the City, the Society serves as the primary
8 defender for low income people prosecuted in the
9 state court system. The overwhelming majority of
10 whom are black and brown. And with the Cop
11 Accountability Project I have been working to improve
12 police accountability and transparency through
13 litigation and advocacy against problematic policing
14 policies. I thank the committee for the opportunity
15 to testify, and I echo the concerns and the testimony
16 of my colleagues at Bronx Defenders and at BDS. This
17 summer, in the wake of George Floyd's murder,
18 millions of Americans took to the streets to confront
19 white supremacy and police violence, and hundreds and
20 thousands of New Yorkers joined that movement. But
21 New York City Police Department met them with batons,
22 body slams, and chokeholds, and this brutal response
23 came as no surprise. The NYPD has operated within a
24 culture of impunity for decades, and that culture
25 links the actions of this individual officer, Kobel,
to systemic issues that plague NYPD and why the City

1 cannot address the former without tackling the
2 latter. Before the City Council could take racism,
3 bias, and hate speech in policing seriously, it must
4 turn its attention to the Mayor and Police
5 Commissioner's current failure to heed the call for
6 reform issued by this summer's uprising and the state
7 government's response to it. On June 12th, the
8 Governor issued an executive order directing local
9 governments to come together to reinvent a plan for
10 public safety, and the Governor specifically directed
11 that stakeholders come from communities with high
12 numbers of police interactions, from nonprofit and
13 [inaudible] groups, local DAs and public defenders
14 and elected officials. But the Mayor's committee to
15 lead that effort has not included any DA or public
16 defenders, and more importantly, it does not include
17 directly impacted people who stand at the front line
18 of the police reform movement, and instead he has
19 placed the reins of this project in the hands of the
20 NYPD, an agency that has failed to police themselves.
21 And now we are confronted by another flagrant example
22 of racism within NYPD's ranks. This time, from
23 Inspector Deputy Kobel who of all positions held
24 Deputy Inspector in charge of the Equal Opportunities
25

1 for the Department, and those hateful online messages
2 were words of bigots and they should horrify this
3 committee, but it should not be surprising. Pro-
4 Publica [sic] reported in 2015 about a racist blog
5 about-- a racist blog in which posts were posted by
6 current and former New York City officers. While
7 officers have been disciplined in the past, such
8 discipline only comes after the comments are exposed
9 by external sources. We even opened the question of
10 how many similar incidents go unreported. It would
11 be a failure to simply isolate Kobel as a bad apple
12 without addressing the systemic racism that creates
13 [sic] every aspect of this Department. That racism
14 has operated like a cancer for decades, infecting
15 everything from NYPD's policies and enforcement
16 strategies to its commanding officers, union
17 leadership, and its own internal disciplinary
18 process, nor have reform efforts been adequate.
19 Recent reports on body-worn camera and implicit bias
20 training found no substantial change in decision-
21 making or behavior. I've submitted written testimony
22 that details the many ways in which this bias
23 pervaded the Department to be considered in
24 conjunction with my testimony today. The City
25

1 Council can do something, though. The City Council
2 has the power now--

3
4 SERGEANT AT ARMS: [interposing] Time's
5 expired.

6 JENNVINE WONG: to demand changes. The
7 City Council has the power now to demand changes to
8 the Governor's mandated process and to salvage this
9 opportunity it presents for meaningful change. I'm
10 asking this committee to consider a resolution
11 condemning the Mayor's failure to abide by the spirit
12 of the Governor's executive order and signal that it
13 will not accept any police reform plan that fails to
14 listen to the voices of communities most impacted by
15 racism within the NYPD and to address the root causes
16 of inequity, including the NYPD's well-established
17 failure to effectively address misconduct like those
18 attributed to Mr. Kobel. Thank you.

19 COMMITTEE COUNSEL: Thank you. Are there
20 any questions from members?

21 CHAIRPERSON TORRES: Thank you for your
22 testimony.

23 COMMITTEE COUNSEL: We will go on to our
24 next panelist who is Jin Kwak. Jen, you may begin.

25 SERGEANT AT ARMS: Time starts now.

3 JIN KWAK: Thank you to the committee
4 chairs for the opportunity to testify. My name is
5 Jin Kwak. I'm the Community Outreach Specialist of
6 the New York City Anti-Violence Project, also known
7 as AVP. AVP serves LGBTQ Trans and gender non-
8 conforming and HIV-affected communities and offers
9 support to LGBTQ survivors through our 24/7 hotline.
10 We first-- we've heard firsthand experiences of
11 racism, bias, and harms experienced by our community
12 members at the hands of the NYPD. Since January
13 we've supported 55 survivors of police violence.
14 Some reported police violence as the primary type of
15 violence. Others experience police violence in
16 addition to other forms of violence in addition to
17 their forms of violence such as intimate partner
18 violence and hate violence, and were re-victimized by
19 the police when seeking safety. One source of this
20 police violence is that the NYPD's history of
21 targeting Trans people of color and ID-ing them as
22 sex workers using transphobic and homophobic
23 measures. The death of Layleen Polanco at Rikers is
24 a horrific example of such targeting. As reported by
25 Pro-Publica, the NYPD targets, harasses, and sets up
people of color in working class neighborhoods and

3 sting operations directed at those buying or selling
4 sex and uses arrests to fill quotas and stack up
5 overtime pay. As a former sex worker and survivor of
6 violence myself, I will not let my sex working
7 community be seen as overtime meal tickets for cops.
8 It's just not fair, and it ain't right. Survival sex
9 work is ultimately a result of a lack of housing,
10 employment, and blatant racism and discrimination of
11 the community we serve. Yet, the city offers us no
12 resources will the Police Department continues to
13 target, harass, and profile us. The City should
14 defund the NYPD Vice Department and enforcement of
15 sex work offenses, end sting operations, and work to
16 fully fund the Sex Worker Resource Center to offer
17 sex workers housing, health services, and financial
18 assistance which will truly lead to safety and
19 security in our community. Thank you.

20 COMMITTEE COUNSEL: Thank you. Are there
21 any questions for members?

22 CHAIRPERSON TORRES: Thank you for your
23 testimony, and thank you for telling your own story.

24 COMMITTEE COUNSEL: At this time, if your
25 name has not been called and you still wish to
testify, please raise your hand using the Zoo raise

1 hand function. It doesn't look like there's anyone
2 left to testify. Just a reminder to all hearing
3 participants to please submit any written testimony
4 to testimony@council.nyc.gov. The deadline for
5 written testimony is 72 hours after the hearing. I
6 will now turn it back to Chair Torres for closing
7 remarks.
8

9 CHAIRPERSON TORRES: I'm just proud of
10 the investigation that we did, and I know that my
11 colleagues are going to continue the groundwork that
12 we've laid. I'm not going to be here to continue
13 that work, but it's been a pleasure to be a colleague
14 of yours, Adrienne, to be a colleague of yours, Andy.
15 I know Andy, you're going to excel in the judiciary
16 and Adrienne, you're going to be a phenomenal Chair
17 of the Public Safety Committee. And I look forward
18 to working with you in the next chapter of my life.
19 With that said, I don't know if you have any words,
20 but I-- I'll leave it to you to adjourn the meeting.

21 CHAIRPERSON ADAMS: You see, I'm
22 speechless. You know, whenever, you know, we've had
23 hearings-- this is actually our first joint hearing
24 together and our last, unfortunately. You are my
25 seat mate in the chamber, and I will miss you dearly.

1 I just want to share publicly the first time that I
2 met you, I knew that I was interacting with
3 brilliance, and you have not failed that moniker for
4 me, if not one day of us knowing each other. I wish
5 you well. I know that you are going to blow the
6 doors off of Congress. I thank everybody for
7 participating in this hearing today. Thank you for
8 all of the staff. Thank you for all of the legal
9 counsel. Thank you especially to my phenomenal,
10 phenomenal co-chair, Congressman-elect Ritchie
11 Torres, ladies and gentleman. Thank you to all of
12 our public that came to testify today, our colleagues
13 that are here. This meeting is now adjourned.

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COMMITTEE ON PUBLIC SAFETY JOINTLY WITH
COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date January 27, 2021